

# **ATTACHMENT 26**

1           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE EASTERN DISTRICT OF PENNSYLVANIA

3           IN RE:    PROCESSED EGG PRODUCTS   :   MDL No. 2002  
4           ANTITRUST LITIGATION               :   No. 08-MD-02002

5           -----:

6           THIS DOCUMENT APPLIES TO:               :  
7           ALL ACTIONS                               :

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9           IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS  
10           TWENTY-NINTH JUDICIAL DISTRICT

11           ASSOCIATED WHOLESALE GROCERS,       :   Case No.  
12           INC., et al.,                         :   10-cv-2171  
13                   Plaintiffs,                       :  
14                   v.                                 :  
15           UNITED EGG PRODUCERS, et al.,       :  
16           Defendants.                             :

17                               \*\* HIGHLY CONFIDENTIAL \*\*

18                               Friday, April 18, 2014

19                               Videotaped 30(b)(6) deposition  
20           of Food Marketing Institute, through JILL  
21           HOLLINGSWORTH, DVM, taken at the offices of  
22           Pepper Hamilton LLP, 600 Fourteenth Street,  
23           N.W., Washington, D.C. 20005, beginning at  
24           9:11 a.m., before LINDA ROSSI RIOS, a  
25           Federally Approved RPR, CCR and Notary  
             Public.

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 KENNY NACHWALTER</p> <p>4 BY: DOUGLAS H. PATTON, ESQUIRE</p> <p>5 and</p> <p>6 SAMUEL J. RANDALL, ESQUIRE</p> <p>7 1100 Miami Center</p> <p>8 201 South Biscayne Boulevard</p> <p>9 Miami, FL 33131</p> <p>10 305-373-1000</p> <p>11 dpatton@kennynachwalter.com</p> <p>12 srandall@kennynachwalter.com</p> <p>13 On behalf of Kroger Plaintiffs</p> <p>14</p> <p>15 HAUSFELD, LLP</p> <p>16 BY: JEANNINE M. KENNEY, ESQUIRE</p> <p>17 1604 Locust Street</p> <p>18 2nd Floor</p> <p>19 Philadelphia, PA 19103</p> <p>20 215-985-3270</p> <p>21 jkenney@hausfeldllp.com</p> <p>22 On behalf of Direct Purchaser Plaintiffs</p> <p>23 (Via teleconference)</p> <p>24</p> <p>25 STRAUS BOIES</p> <p>26 BY: THOMAS M. PALUMBO, ESQUIRE</p> <p>27 4041 University Drive</p> <p>28 5th Floor</p> <p>29 Fairfax, VA 22030</p> <p>30 703-764-8700</p> <p>31 tpalumbo@strauss-boies.com</p> <p>32 On behalf of Indirect Purchaser Plaintiffs</p> <p>33 (Via teleconference)</p> <p>34</p> <p>35</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 PEPPER HAMILTON, LLP</p> <p>4 BY: EVAN W. DAVIS, ESQUIRE</p> <p>5 and</p> <p>6 ROBIN P. SUMNER, ESQUIRE</p> <p>7 3000 Two Logan Square</p> <p>8 18th &amp; Arch Street</p> <p>9 Philadelphia, PA 19103</p> <p>10 215-981-4245</p> <p>11 215-981-4652</p> <p>12 davisew@pepperlaw.com</p> <p>13 sumnerr@pepperlaw.com</p> <p>14 On behalf of United Egg Producers and the</p> <p>15 United States Egg Marketers</p> <p>16</p> <p>17 CROWELL &amp; MORING</p> <p>18 BY: ELISA F. KANTOR, ESQUIRE</p> <p>19 1001 Pennsylvania Avenue NW</p> <p>20 Washington D.C. 20004-2595</p> <p>21 202-624-2904</p> <p>22 ekantor@crowell.com</p> <p>23 On behalf of Daybreak Foods</p> <p>24</p> <p>25 PORTER, WRIGHT, MORRIS &amp; ARTHUR</p> <p>26 BY: DONALD M. BARNES, ESQUIRE</p> <p>27 1900 K Street, NW</p> <p>28 Suite 1110</p> <p>29 Washington, D.C. 20006</p> <p>30 202-778-3056</p> <p>31 dbarnes@porterwright.com</p> <p>32 On behalf of Rose Acre Farms</p> <p>33</p> <p>34</p> <p>35</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 STUEVE SIEGEL HANSON LLP</p> <p>4 BY: BRADLEY T. WILDERS, ESQUIRE</p> <p>5 460 Nichols Road</p> <p>6 Suite 200</p> <p>7 Kansas City, MO 64112</p> <p>8 816-714-7126</p> <p>9 wilders@stuevesiegel.com</p> <p>10 On behalf of the Plaintiffs in the Kansas</p> <p>11 Associated Wholesale Grocers litigation</p> <p>12</p> <p>13 PROSKAUER ROSE LLP</p> <p>14 BY: ADRIAN FONTECILLA, ESQUIRE</p> <p>15 1001 Pennsylvania Ave, N.W.</p> <p>16 Suite 400 South</p> <p>17 Washington, D.C. 20004-2533</p> <p>18 202-416-5863</p> <p>19 afontecilla@proskauer.com</p> <p>20 On behalf of Daybreak Foods</p> <p>21 (Via teleconference)</p> <p>22</p> <p>23 MARCUS &amp; SHAPIRA LLP</p> <p>24 BY: BRIAN HILL, ESQUIRE</p> <p>25 One Oxford Center</p> <p>26 35th Floor</p> <p>27 Pittsburgh, PA 15219</p> <p>28 412-338-5213</p> <p>29 hill@marcus-shapira.com</p> <p>30 On behalf of Giant Eagle</p> <p>31 (Via teleconference)</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p>	<p style="text-align: right;">Page 5</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 FAEGRE BAKER DANIELS</p> <p>4 BY: E. JASON BURKE, ESQUIRE</p> <p>5 311 S. Wacker Drive</p> <p>6 Suite 4400</p> <p>7 Chicago, IL 60606</p> <p>8 317-212-2264</p> <p>9 jason.burke@faegrebd.com</p> <p>10 On behalf of Midwest Poultry Services</p> <p>11 (Via teleconference)</p> <p>12</p> <p>13 WEIL GOTSHAL &amp; MANGES</p> <p>14 BY: CARRIE M. ANDERSON, ESQUIRE</p> <p>15 1300 Eye Street, NW</p> <p>16 Suite 900</p> <p>17 Washington, D.C. 20005</p> <p>18 202-682-7231</p> <p>19 carrie.anderson@weil.com</p> <p>20 On behalf of Michael Foods</p> <p>21</p> <p>22 HUTCHINSON P.A.</p> <p>23 BY: TROY J. HUTCHINSON, ESQUIRE</p> <p>24 1907 Wayzata Boulevard E</p> <p>25 Suite 330</p> <p>26 Wayzata, MN 55391</p> <p>27 952-215-0141</p> <p>28 On behalf of Sparboe Farms</p> <p>29 (Via teleconference)</p> <p>30</p> <p>31 EIMER STAHL, LLP</p> <p>32 BY: TRAVIS A. KENNEDY, ESQUIRE</p> <p>33 224 South Michigan Avenue</p> <p>34 Suite 1100</p> <p>35 Chicago, IL 60604</p> <p>36 312-660-7672</p> <p>37 tkennedy@eimerstahl.com</p> <p>38 On behalf of Moark, LLC</p> <p>39 and Norco Ranch, Inc.</p> <p>40 (Via teleconference)</p> <p>41</p> <p>42</p> <p>43</p> <p>44</p> <p>45</p>

<p style="text-align: right;">Page 6</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 GIBSON DUNN &amp; CRUTCHER</p> <p>4 BY: JASON C. MCKENNEY, ESQUIRE</p> <p>5 2100 McKinney Avenue</p> <p>6 Suite 1100</p> <p>7 Dallas, TX 75201-6912</p> <p>8 214-698-3279</p> <p>9 jmckenney@gibsondunn.com</p> <p>10 On behalf of the Defendant, Cal-Maine</p> <p>11</p> <p>12</p> <p>13</p> <p>14 GEORGE GREEN, ESQUIRE</p> <p>15 General Counsel Food Marketing Institute</p> <p>16 2345 Crystal Drive</p> <p>17 Suite 800</p> <p>18 Arlington VA 22202</p> <p>19 202-220-0613</p> <p>20 On behalf of the Witness</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 8</p> <p>1 EXHIBITS (cont'd.)</p> <p>2 - - -</p> <p>3 EXHIBIT NUMBER DESCRIPTION PAGE MARKED</p> <p>4</p> <p>5 H-7 Animal Husbandry</p> <p>6 Guidelines for U.S. Egg</p> <p>7 Laying Flocks 2000</p> <p>8 Edition,</p> <p>9 KRGE00020660 - 20670 113</p> <p>10</p> <p>11 H-8 E-mail chain,</p> <p>12 FMI-000536 &amp; 000537 127</p> <p>13 H-9 1/4/02 Letter,</p> <p>14 FMI-000836 - 000838 131</p> <p>15</p> <p>16 H-10 E-mail chain,</p> <p>17 FMI-000595 - 000601 137</p> <p>18 H-11 2/4/02 Letter,</p> <p>19 FMI-001213 - 001261 145</p> <p>20</p> <p>21 H-12 3/20/02 E-mail,</p> <p>22 FMI-001078 &amp; 001079 152</p> <p>23 H-13 6/02 Report,</p> <p>24 FMI-000015 - 000022 156</p> <p>25</p> <p>16 H-14 Status reports,</p> <p>17 FMI-000074 - 000076 160</p> <p>18 H-15 UEP Animal Husbandry</p> <p>19 Guidelines for U.S.</p> <p>20 Egg Laying Flocks</p> <p>21 2002 Edition,</p> <p>22 FMI-000171 - 000186 163</p> <p>23 H-16 7/16/02 Letter,</p> <p>24 FMI-000293 &amp; 000294 172</p> <p>25</p> <p>22 H-17 7/2/02 Letter,</p> <p>23 FMI-000050 176</p> <p>24 H-18 9/9/02 Letter,</p> <p>25 FMI-000286 - 000288 179</p>
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<p style="text-align: right;">Page 11</p> <p>1 EXHIBITS (cont'd.)</p> <p>2 - - -</p> <p>3 EXHIBIT NUMBER DESCRIPTION PAGE MARKED</p> <p>4</p> <p>5 H-38 Welfare best practices</p> <p>6 emerge article 361</p> <p>7 H-39 8/16/02 Fax,</p> <p>8 FMI-001066 - 001077 371</p> <p>9</p> <p>10 H-40 UEP Certified Gets</p> <p>11 High Marks From Food</p> <p>12 Marketing Institute</p> <p>13 article 377</p> <p>14 H-41 Food Marketing</p> <p>15 Institute Officers and</p> <p>16 Directors,</p> <p>17 FMI-000983 391</p> <p>18</p> <p>19 H-42 Food Marketing</p> <p>20 Institute Officers and</p> <p>21 Directors,</p> <p>22 FMI-000685 392</p> <p>23 H-43 5/5/09 FMI press</p> <p>24 release 395</p> <p>25</p> <p>H-44 6/6/07 Memorandum,</p> <p>FMI-001062 - 001065 407</p> <p>H-45 2/13/02 E-mail,</p> <p>MOARK0011157 413</p> <p>H-46 E-mail chain,</p> <p>FMI-002537 &amp; 002538 442</p> <p>H-47 E-mail chain,</p> <p>FMI-003078 &amp; 003079 442</p> <p>- - -</p>	<p style="text-align: right;">Page 13</p> <p>1</p> <p>2 - - -</p> <p>3 VIDEOGRAPHER: We're now on the</p> <p>4 record.</p> <p>5 My name is Nolan Church of</p> <p>6 Capital Heights, Maryland.</p> <p>7 Today's date is April 18, 2014.</p> <p>8 The time is approximately 9:11 a.m.</p> <p>9 This deposition is being held</p> <p>10 at the office of Pepper Hamilton,</p> <p>11 located at 600 14th Street,</p> <p>12 Washington, D.C.</p> <p>13 The captions of the cases are</p> <p>14 Processed Eggs Antitrust Litigation</p> <p>15 and Associated Wholesale Grocers,</p> <p>16 Incorporated, et al. versus United Egg</p> <p>17 Producers, et al. The name of the</p> <p>18 witness is Jill Hollingsworth.</p> <p>19 At this time the attorneys,</p> <p>20 please, identify themselves and the</p> <p>21 parties they represent.</p> <p>22 MR. PATTON: Douglas Patton with</p> <p>23 the firm of Kenny Nachwalter, on</p> <p>24 behalf of the Kroger Plaintiffs.</p> <p>25 MR. WILDERS: Brad Wilders from</p>

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<p style="text-align: right;">Page 14</p> <p>1</p> <p>2 the firm Stueve Siegel Hanson, on</p> <p>3 behalf of the plaintiffs in the Kansas</p> <p>4 litigation in Wyandotte County,</p> <p>5 Kansas.</p> <p>6 MR. BARNES: Don Barnes with the</p> <p>7 firm of Porter, Wright, Morris &amp;</p> <p>8 Arthur representing Rose Acre Farms.</p> <p>9 MR. MCKENNEY: Jason McKenney</p> <p>10 from Gibson Dunn &amp; Crutcher on behalf</p> <p>11 of Defendant Cal-Maine.</p> <p>12 MS. KANTOR: Elisa Kantor from</p> <p>13 the law firm of Crowell &amp; Moring on</p> <p>14 behalf of Daybreak Foods.</p> <p>15 MS. ANDERSON: Carrie Anderson</p> <p>16 with Weil Gotshal on behalf of Michael</p> <p>17 Foods.</p> <p>18 MS. SUMNER: Robin Sumner from</p> <p>19 Pepper Hamilton on behalf of</p> <p>20 Defendants, United Egg Producers and</p> <p>21 the United States Egg Marketers.</p> <p>22 MR. DAVIS: Evan Davis, Pepper</p> <p>23 Hamilton on behalf of United Egg</p> <p>24 Producers and United States Egg</p> <p>25 Marketers.</p>	<p style="text-align: right;">Page 16</p> <p>1</p> <p>2 MR. HILL: This is Brian Hill</p> <p>3 from Marcus &amp; Shapira on behalf of</p> <p>4 Giant Eagle.</p> <p>5 MR. KENNEDY: Travis Kennedy of</p> <p>6 Eimer Stahl on behalf of Moark, LLC</p> <p>7 and Norco Ranch, Inc.</p> <p>8 MR. BURKE: Jason Burke with</p> <p>9 Faegre Baker Daniels on behalf of</p> <p>10 Midwest Poultry Services.</p> <p>11 - - -</p> <p>12 EXAMINATION</p> <p>13 - - -</p> <p>14 BY MR. PATTON:</p> <p>15 Q. Good morning.</p> <p>16 A. Hi.</p> <p>17 Q. Could you, please, introduce</p> <p>18 yourself for the record?</p> <p>19 A. Yes, I can. My name is</p> <p>20 Dr. Jill Hollingsworth. In the way of a</p> <p>21 little background, I was an employee of the</p> <p>22 Food Marketing Institute from November of</p> <p>23 1997 until June of 2011, and I continue</p> <p>24 working with them as a consultant. I am a</p> <p>25 Doctor of Veterinary Medicine. Prior to</p>
<p style="text-align: right;">Page 15</p> <p>1</p> <p>2 MR. GREEN: George Green,</p> <p>3 general counsel, Food Marketing</p> <p>4 Institute on behalf of the Witness,</p> <p>5 Jill Hollingsworth.</p> <p>6 VIDEOGRAPHER: At this time the</p> <p>7 court reporter, Linda Rossi Rios, will</p> <p>8 administer the oath.</p> <p>9 - - -</p> <p>10 JILL HOLLINGSWORTH, DVM, after</p> <p>11 having been duly sworn, was examined</p> <p>12 and testified as follows:</p> <p>13 - - -</p> <p>14 COURT REPORTER: Excuse me, will</p> <p>15 counsel on the phone, please, identify</p> <p>16 themselves?</p> <p>17 MR. HUTCHINSON: Troy Hutchinson</p> <p>18 on behalf of Sparboe Farms.</p> <p>19 MR. FONTECILLA: Andrian</p> <p>20 Fontecilla with the firm Proskauer</p> <p>21 Rose on behalf of Defendant Daybreak</p> <p>22 Foods, Inc.</p> <p>23 MR. PALUMBO: Thomas Palumbo,</p> <p>24 the law firm of Straus Boies on behalf</p> <p>25 of Indirect Purchaser Plaintiffs.</p>	<p style="text-align: right;">Page 17</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 working at the Food Marketing Institute, I</p> <p>3 was for 15 years an employee of the U.S.</p> <p>4 Department of Agriculture in various</p> <p>5 positions, but always within one division,</p> <p>6 and that was the Food Safety and Inspection</p> <p>7 Program of USDA which has oversight</p> <p>8 regulating meat and poultry production.</p> <p>9 Q. Thank you. Dr. Hollingsworth,</p> <p>10 the court reporter needs to take down your</p> <p>11 answers and my questions and that's the most</p> <p>12 important thing.</p> <p>13 A. Okay.</p> <p>14 Q. If you could wait a moment</p> <p>15 between my question and your answer, it will</p> <p>16 give us time -- to give her time, and we</p> <p>17 won't step on each other.</p> <p>18 A. Okay.</p> <p>19 Q. That happens sometimes, and</p> <p>20 it's usually my fault.</p> <p>21 If you choose to answer a</p> <p>22 question yes or no, I would ask that you do</p> <p>23 so rather than do uh-huhs or uh-uhs or that</p> <p>24 type of thing, because they're ambiguous</p> <p>25 answers.</p>

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<p style="text-align: right;">Page 18</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. All right.</p> <p>3 Q. You also know that you are</p> <p>4 designated today to testify on behalf of the</p> <p>5 FMI as a corporation. Is that right?</p> <p>6 A. Yes.</p> <p>7 Q. I would like to focus today on</p> <p>8 the time period when you were employed by FMI</p> <p>9 and when you worked to develop the FMI's</p> <p>10 animal welfare policy, and also get into your</p> <p>11 dealings with various producer industries</p> <p>12 including the UEP.</p> <p>13 A. All right.</p> <p>14 Q. Before we do that, let's go</p> <p>15 back over your background a little bit. Did</p> <p>16 you attend university?</p> <p>17 A. Yes, I did. I have an</p> <p>18 undergraduate degree, a Bachelor of Science</p> <p>19 in agriculture sciences at the University of</p> <p>20 Georgia. And I also received my Doctorate of</p> <p>21 Veterinary Medicine from the University of</p> <p>22 Georgia.</p> <p>23 Q. What time period is that?</p> <p>24 A. Wow.</p> <p>25 Q. Even roughly.</p>	<p style="text-align: right;">Page 20</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 I was responsible for overseeing the</p> <p>3 slaughter and processing of poultry in</p> <p>4 Northern Georgia. And the veterinarians are</p> <p>5 assigned to the slaughter processing</p> <p>6 facilities mainly to look for animal diseases</p> <p>7 and to make sure that the animals that are</p> <p>8 processed into food are done so in a safe</p> <p>9 manner.</p> <p>10 I -- my career advanced, I</p> <p>11 moved to an area office, which was in Athens,</p> <p>12 Georgia, and that area covered all the meat</p> <p>13 and poultry processing in the State of</p> <p>14 Georgia. I then moved to the regional office</p> <p>15 which was in Atlanta. And in that capacity,</p> <p>16 I was the regional poultry specialist for the</p> <p>17 southeast region, and that included both</p> <p>18 domestic animal production and processing,</p> <p>19 and also imports/exports.</p> <p>20 I then moved to Washington,</p> <p>21 D.C. where I worked at the Office of the</p> <p>22 Administrator in various positions, most of</p> <p>23 them including food safety, risk assessment,</p> <p>24 investigating of recalls, outbreaks and</p> <p>25 that -- things of that nature. And</p>
<p style="text-align: right;">Page 19</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Well, I was at the University</p> <p>3 of Georgia from 1970 through '77. That</p> <p>4 encompasses both of those degrees.</p> <p>5 Q. And after University of</p> <p>6 Georgia, did you go right to the USDA?</p> <p>7 A. No, actually I worked in a</p> <p>8 private practice for two years before joining</p> <p>9 the Department of Agriculture.</p> <p>10 Q. As a veterinarian?</p> <p>11 A. As a small animal practitioner</p> <p>12 veterinarian, yes.</p> <p>13 Q. Then when did you join the</p> <p>14 USDA?</p> <p>15 A. That would have been in 19 --</p> <p>16 roughly 1979 or '80.</p> <p>17 Q. What was -- could you just --</p> <p>18 15 years is a long time to cover, so if you</p> <p>19 could walk us through your different</p> <p>20 positions and titles and responsibilities,</p> <p>21 that would be helpful.</p> <p>22 A. I initially started out as what</p> <p>23 is known as a Supervisory Veterinary Medical</p> <p>24 Officer in the Department of Agriculture Food</p> <p>25 Safety Inspection Service. In that capacity,</p>	<p style="text-align: right;">Page 21</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 eventually I was the assistant to the</p> <p>3 undersecretary on food safety.</p> <p>4 Q. When did you start with the</p> <p>5 FMI?</p> <p>6 A. In November of 1997.</p> <p>7 Q. And what was your position with</p> <p>8 the FMI?</p> <p>9 A. I came to FMI as the Vice</p> <p>10 President of what was then called Science and</p> <p>11 Technology, but it was changed to the</p> <p>12 Division of Food Safety.</p> <p>13 Q. And what were your</p> <p>14 responsibilities?</p> <p>15 A. Primarily helping develop</p> <p>16 programs for food safety assurance, working</p> <p>17 with retailers as an advocate for them in</p> <p>18 assuring that the programs that they had in</p> <p>19 place made -- made sure that the stores were</p> <p>20 providing safe food to consumers. We did a</p> <p>21 lot working with members on such things as</p> <p>22 training employees in safe practices,</p> <p>23 sanitation programs, had to make sure stores</p> <p>24 were clean and safe. And also a large part</p> <p>25 of the job was dealing in regulatory issues,</p>

<p style="text-align: right;">Page 22</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 making sure we were in compliance with food</p> <p>3 safety regulations from both FDA and USDA.</p> <p>4 Q. Before we get into the animal</p> <p>5 welfare part of your job, let's take a step</p> <p>6 back and try to figure out -- or let me ask</p> <p>7 you some questions about FMI. Very generally</p> <p>8 what is FMI as an organization and what's its</p> <p>9 purpose?</p> <p>10 A. FMI is a nonprofit trade</p> <p>11 association. Its members include retail food</p> <p>12 stores, and they are everything from singly</p> <p>13 independently owned stores, all the way up to</p> <p>14 large multi-store chains throughout the</p> <p>15 United States. The members, there's about</p> <p>16 1,500 members and total they represent about</p> <p>17 40,000 stores. In addition to the retail</p> <p>18 stores themselves, our membership also</p> <p>19 includes wholesalers and the food</p> <p>20 distribution centers that provide the food to</p> <p>21 those stores.</p> <p>22 We also have an associate</p> <p>23 member program. The associate members</p> <p>24 include those companies that provide products</p> <p>25 or services to the retail food industry.</p>	<p style="text-align: right;">Page 24</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 policies and forms, for instance, for its</p> <p>3 retail members and other members?</p> <p>4 A. We do work on developing</p> <p>5 policies at our members request. We are, of</p> <p>6 course, a member driven organization. And if</p> <p>7 our members ask us to provide or develop the</p> <p>8 research for them so that they can develop</p> <p>9 policies, we do. Of course, they are the</p> <p>10 members' policies, not necessarily FMI's</p> <p>11 policies. But we do work with our members</p> <p>12 primarily through a committee process. FMI</p> <p>13 has several different committees. For</p> <p>14 example, we have a Food Safety Committee. We</p> <p>15 also have a Communications Committee. And</p> <p>16 those committees do work with the members on</p> <p>17 issues to develop policies and also to</p> <p>18 provide them information.</p> <p>19 Q. Do -- does any single member of</p> <p>20 the FMI control or dictate policy for the</p> <p>21 FMI?</p> <p>22 A. No, all the members are</p> <p>23 considered equal, even whether they're a</p> <p>24 single store owner or a big chain store,</p> <p>25 they're all seen as equal members with an</p>
<p style="text-align: right;">Page 23</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Such as food producers?</p> <p>3 A. It can be food producers, it</p> <p>4 can be companies that manufacture equipment</p> <p>5 that is used in the stores, companies that</p> <p>6 provide various retail services and in</p> <p>7 addition to the food providers.</p> <p>8 Q. What generally is the FMI's</p> <p>9 mission, if you know?</p> <p>10 A. The mission is really to</p> <p>11 provide research, education and industry</p> <p>12 support to the retail food sector. We have a</p> <p>13 variety of divisions within FMI. For</p> <p>14 example, we do lobby on their behalf. We</p> <p>15 have a government relations division. We</p> <p>16 have an education division that does a lot of</p> <p>17 work in providing information to our members</p> <p>18 particularly on research such as consumer</p> <p>19 trends, shopping behaviors, new products</p> <p>20 coming to the market. We also monitor and</p> <p>21 track for them emerging issues, helping them</p> <p>22 prepare not only to have stores of today, but</p> <p>23 the stores of tomorrow.</p> <p>24 Q. Does the FMI, as part of its</p> <p>25 responsibilities, focus on the development of</p>	<p style="text-align: right;">Page 25</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 equal voice. And policies have to be</p> <p>3 developed by the committee and approved by</p> <p>4 the board. FMI has a rather large board,</p> <p>5 usually about 80 members on the board. The</p> <p>6 board is very representative. We always make</p> <p>7 sure on the board -- it's mainly made up of</p> <p>8 the CEOs of the companies. We try to have a</p> <p>9 very representative and diverse group</p> <p>10 including small stores operators, big store</p> <p>11 operators, different parts of the country,</p> <p>12 some of them are regional, some of them are</p> <p>13 national, some of them are international. So</p> <p>14 that -- the board really has to approve</p> <p>15 anything that's called a policy.</p> <p>16 Q. Does FMI have the authority to</p> <p>17 reach agreements or bind individual members?</p> <p>18 A. No. No. I mean, everything we</p> <p>19 do for them is offered to them as a service</p> <p>20 and then they choose which things they want</p> <p>21 to implement or follow or use.</p> <p>22 Q. Now, let's focus on the time</p> <p>23 period when you became involved in animal</p> <p>24 welfare. Is it your recollection that it was</p> <p>25 late in the year 2000 when you were part of</p>

7 (Pages 22 - 25)



<p style="text-align: right;">Page 26</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 an effort within FMI to focus on animal</p> <p>3 welfare issues?</p> <p>4 A. Yeah. I'm sorry, yes. That</p> <p>5 was in 2000.</p> <p>6 Q. And what was your job title at</p> <p>7 that time period?</p> <p>8 A. I was vice president of food</p> <p>9 safety programs.</p> <p>10 Q. And what -- walk us through</p> <p>11 this, how this started. What precipitated</p> <p>12 the interest in developing or focusing on</p> <p>13 animal welfare issues?</p> <p>14 A. Well, there were several things</p> <p>15 happening at that time. Animal activist</p> <p>16 groups had begun something of a program of</p> <p>17 protesting in front of mostly food service</p> <p>18 operations, companies like McDonald's or</p> <p>19 Burger King. Organizations like PETA, they</p> <p>20 would protest in front of the stores,</p> <p>21 basically disruptive to the business, but</p> <p>22 also making demands that these food service</p> <p>23 companies implement certain animal welfare</p> <p>24 practices and procedures that organizations</p> <p>25 like PETA wanted to have done. Our members</p>	<p style="text-align: right;">Page 28</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 doing was they would target one organization,</p> <p>3 one company like McDonald's and make some</p> <p>4 demands. And then if McDonald's said, okay,</p> <p>5 we will do what you're asking, then they</p> <p>6 would leave McDonald's and go to another</p> <p>7 company like a Burger King, and they would</p> <p>8 ask them to step up and do more than</p> <p>9 McDonald's. They were starting to get</p> <p>10 everyone to play against each other. What</p> <p>11 happened was some of those food service</p> <p>12 companies, it appeared to us, were actually</p> <p>13 making changes without any scientific basis,</p> <p>14 they were just doing it to make PETA go away.</p> <p>15 We felt that was not a way to approach this</p> <p>16 issue.</p> <p>17 Q. Was it FMI's objective to try</p> <p>18 to get ahead of the animal welfare issue,</p> <p>19 operate proactively before the sights turned</p> <p>20 on retail?</p> <p>21 A. Always, yes. In fact, we're</p> <p>22 always trying to be kind of futuristic in our</p> <p>23 thinking, like what could happen, what can we</p> <p>24 do to sort of fend off or redirect anything</p> <p>25 that could negatively impact retailers and</p>
<p style="text-align: right;">Page 27</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 were aware of that. They followed it, it was</p> <p>3 in the news. FMI also tracks news that might</p> <p>4 impact members and keeps them aware of</p> <p>5 emerging issues. And that was certainly</p> <p>6 something that was on our radar screen</p> <p>7 because it was becoming more and more</p> <p>8 disruptive to the food service industry at</p> <p>9 the time. Then later in 2000, several of our</p> <p>10 members came to FMI and said we've actually</p> <p>11 received a letter, the letter is asking us to</p> <p>12 explain what is our animal welfare stand,</p> <p>13 what is our policies, how do we feel about</p> <p>14 animal welfare. And those members asked FMI</p> <p>15 if we would explore it further and see how</p> <p>16 big an issue is this becoming, is it going to</p> <p>17 affect how consumers feel about retail stores</p> <p>18 and what, if anything, should they be doing</p> <p>19 about it.</p> <p>20 Q. What were the activities that</p> <p>21 you were observing with the McDonald's and</p> <p>22 the Burger Kings that you mentioned?</p> <p>23 A. Well, one of the things that we</p> <p>24 saw happening and that was of some concern</p> <p>25 was that the -- one of the things PETA was</p>	<p style="text-align: right;">Page 29</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 consumers' beliefs about what retailers do</p> <p>3 for them. And so, yes, we wanted to be very</p> <p>4 proactive, and we even wanted to get more</p> <p>5 information at that time, what did consumers</p> <p>6 actually think about what retailers should be</p> <p>7 doing in this regard.</p> <p>8 Q. In this time period in 2000,</p> <p>9 had the activist groups actually turned their</p> <p>10 sights yet on the retailers?</p> <p>11 A. In the sense that they were</p> <p>12 getting letters and questioning them about</p> <p>13 what were they doing, we felt that that tide</p> <p>14 was turning toward retail.</p> <p>15 Q. Had they been protested or was</p> <p>16 there a level of activity that you had seen</p> <p>17 with the McDonald's and the Burger Kings, had</p> <p>18 that matured yet?</p> <p>19 A. I can't say for sure that I</p> <p>20 know if anyone actually had a protester in</p> <p>21 front of the store, but I do know that there</p> <p>22 was concern that that tide was turning. But,</p> <p>23 again, the focus was at that point in early</p> <p>24 2000, especially mostly on food service</p> <p>25 operations.</p>

<p style="text-align: right;">Page 30</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. By "food service," you mean the</p> <p>3 Burger Kings and the --</p> <p>4 A. Fast food, right. What you</p> <p>5 call fast food.</p> <p>6 Q. So what did -- what did --</p> <p>7 another poorly asked question.</p> <p>8 What did you do, how did you</p> <p>9 get into action on animal welfare is my</p> <p>10 question?</p> <p>11 A. Well, our consumer and media</p> <p>12 group -- I'm sorry, not consumer,</p> <p>13 communications and media group, they are very</p> <p>14 good at tracking how many news hits there are</p> <p>15 on various things of that nature, and then</p> <p>16 they report that out to the members. One of</p> <p>17 the things that they even saw was increasing</p> <p>18 media coverage of these protests and this</p> <p>19 animal welfare issue. They were making us</p> <p>20 and the members aware that they could see</p> <p>21 this starting to emerge and become a bigger</p> <p>22 issue. At that time late in 2000, there were</p> <p>23 five members in particular who had not</p> <p>24 collectively, independently contacted FMI and</p> <p>25 said we're really getting growingly more and</p>	<p style="text-align: right;">Page 32</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 considered somewhat broad and generic. It</p> <p>3 had four or five bullets in it. It said</p> <p>4 things like, you know, we feel that animals</p> <p>5 should not be raised in a condition where</p> <p>6 there's any neglect or abuse. We felt that</p> <p>7 anything we did had to be science based. We</p> <p>8 also felt that the policy wasn't going to</p> <p>9 encourage that the government play its role</p> <p>10 where there was a regulatory requirement. So</p> <p>11 they were broad policy type statement.</p> <p>12 We developed them in</p> <p>13 conjunction with the members who were</p> <p>14 interested in this case. We asked them, you</p> <p>15 know, did you think this was the policy</p> <p>16 direction we would take. They agreed, and</p> <p>17 then we decided at that time, because the</p> <p>18 issue would have an impact on all of our</p> <p>19 members in one way or another, we proposed to</p> <p>20 our president and CEO that we write this up</p> <p>21 as a board level policy and present it to the</p> <p>22 board for their approval.</p> <p>23 Q. So the notion was to develop an</p> <p>24 overarching policy before really ever looking</p> <p>25 at guidelines of any particular industry?</p>
<p style="text-align: right;">Page 31</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 more concerned about this, and would you</p> <p>3 start looking into this issue for us. And at</p> <p>4 that time we agreed to get those five members</p> <p>5 together, they each had a representative, and</p> <p>6 we asked them what would you like FMI to do,</p> <p>7 what kinds of concerns do you have, where</p> <p>8 would you like us to go with this issue, and</p> <p>9 do you want us to make it a priority. Those</p> <p>10 companies said, yes, we would like you to do</p> <p>11 that.</p> <p>12 Q. Now, at this point in time, did</p> <p>13 you develop internally a committee or an</p> <p>14 approach? I know that Karen Brown became</p> <p>15 involved, so point us how you started to go</p> <p>16 about this.</p> <p>17 A. Well, the first thing we felt</p> <p>18 we had to do was to get ourselves organized</p> <p>19 was to say what would we have as a very</p> <p>20 generic, if you will, overriding policy. If</p> <p>21 we're going to start looking at how do we</p> <p>22 deal with animal welfare issues on behalf of</p> <p>23 our members, what would we want to do</p> <p>24 initially. And the first thing was to come</p> <p>25 up with the a policy. The policy was I</p>	<p style="text-align: right;">Page 33</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Right. Right. Well, along</p> <p>3 with the policy, what we also did was develop</p> <p>4 what we call some program steps. And it was</p> <p>5 to let the board know, because we knew the</p> <p>6 board would ask if we approved this policy,</p> <p>7 what does it mean, what are you going to do</p> <p>8 then. So we did develop some action steps</p> <p>9 that we saw as what we would do if the policy</p> <p>10 was approved.</p> <p>11 Q. Let me mark with you Exhibit 1,</p> <p>12 because I think it may be helpful to walk</p> <p>13 through this.</p> <p>14 A. Okay.</p> <p>15 - - -</p> <p>16 (Exhibit H-1, Animal Welfare</p> <p>17 Project, Bates KRGE00020402 &amp;</p> <p>18 KRGE00020403, was marked for</p> <p>19 identification.)</p> <p>20 - - -</p> <p>21 BY MR. PATTON:</p> <p>22 Q. I've handed you what's been</p> <p>23 marked Exhibit 1 to your deposition.</p> <p>24 MR. DAVIS: This is -- excuse</p> <p>25 me, Doug, this is marked highly</p>

<p style="text-align: right;">Page 34</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 confidential.</p> <p>3 MR. PATTON: Yeah. It's my</p> <p>4 client's document, so I'm okay having</p> <p>5 her see it.</p> <p>6 MR. BARNES: Right. You're</p> <p>7 waiving the highly confidential</p> <p>8 designation. Correct?</p> <p>9 MR. PATTON: No, I'm not. I'm</p> <p>10 saying she can see this document.</p> <p>11 It's okay with me.</p> <p>12 MR. DAVIS: Has she signed the</p> <p>13 protective order?</p> <p>14 MR. PATTON: I don't know. And</p> <p>15 I don't -- it's not --</p> <p>16 MR. BARNES: I think you've</p> <p>17 waived it. Go ahead.</p> <p>18 MR. PATTON: Well, if I've</p> <p>19 waived it, I waived it to this</p> <p>20 document, so...</p> <p>21 BY MR. PATTON:</p> <p>22 Q. Is this -- this is one of the</p> <p>23 earliest documents I have found in the case.</p> <p>24 If you take a moment and look at this. Does</p> <p>25 this sort of outline the animal welfare</p>	<p style="text-align: right;">Page 36</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 including the American Humane Association.</p> <p>3 That was not one of the groups that we tapped</p> <p>4 for an animal expert.</p> <p>5 Q. Let me -- maybe to cut through</p> <p>6 this, if you looked at the first paragraph at</p> <p>7 the top, "To have a uniform response by the</p> <p>8 grocery retail industry to consumer</p> <p>9 concerns...", was that part of FMI's</p> <p>10 objective?</p> <p>11 A. One of the things that we had</p> <p>12 as our intention in developing our animal</p> <p>13 welfare program was to be able to speak on</p> <p>14 behalf of the industry about our policy which</p> <p>15 was we do care about animal welfare as an</p> <p>16 issue.</p> <p>17 Q. Do you see where it identified</p> <p>18 cows, pigs, sheep, lambs, chicken, meat and</p> <p>19 eggs?</p> <p>20 A. Uh-huh.</p> <p>21 Q. Was part of the FMI objective</p> <p>22 to look at all producer industries, not just</p> <p>23 one particular industry such as eggs?</p> <p>24 A. It was to do all of the major</p> <p>25 protein commodities, animal commodities.</p>
<p style="text-align: right;">Page 35</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 project at its early stages --</p> <p>3 MR. DAVIS: Objection to form.</p> <p>4 MR. MCKENNEY: Objection to</p> <p>5 form.</p> <p>6 THE WITNESS: I've never seen</p> <p>7 this, so if you'll give me just a</p> <p>8 minute, I'll have to look at it.</p> <p>9 There are a few statements in</p> <p>10 here that I would say are not</p> <p>11 necessarily consistent with the way</p> <p>12 FMI positioned our animal welfare</p> <p>13 program. For example, FMI itself did</p> <p>14 not have any intention of setting</p> <p>15 standards. That was something that we</p> <p>16 didn't do, we didn't have the</p> <p>17 expertise to do that.</p> <p>18 BY MR. PATTON:</p> <p>19 Q. Why is that?</p> <p>20 A. Mainly because we didn't have</p> <p>21 the expertise. These were animal producers,</p> <p>22 we're retailers. That wasn't our expertise,</p> <p>23 to set a standard. And, let's see, that's</p> <p>24 the one that I noticed right off. Oh, and</p> <p>25 also it said work with animal welfare experts</p>	<p style="text-align: right;">Page 37</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Why was that?</p> <p>3 A. Because the animal welfare</p> <p>4 issues involve the raising, handling and</p> <p>5 transportation of all these different</p> <p>6 species, cows, pigs, chickens.</p> <p>7 Q. Where -- in bullet paragraph 6,</p> <p>8 there are some bullet points there, and one</p> <p>9 says, "industry is interested and concerned</p> <p>10 about the issue of humane treatment of</p> <p>11 animals." Was that a concern at the time</p> <p>12 period in late 2000 and -- in late 2000?</p> <p>13 A. I would say, yes, I think the</p> <p>14 retail industry was concerned that they</p> <p>15 wanted to be able to assure their consumers</p> <p>16 that the products they sold were coming from</p> <p>17 suppliers who did treat their animals with</p> <p>18 concern for their humane care.</p> <p>19 Q. Where it says, "retail industry</p> <p>20 has no direct role," do you have an</p> <p>21 understanding of what that refers to?</p> <p>22 MR. BARNES: Object to the</p> <p>23 question. The witness has testified</p> <p>24 she's never seen this document before</p> <p>25 and you're asking her to interpret it.</p>

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<p style="text-align: right;">Page 38</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 MR. PATTON: Hang on. First of</p> <p>3 all, I would appreciate no speaking</p> <p>4 objections, because we're going to</p> <p>5 object to form here, and I'm going to</p> <p>6 be fairly firm about that, because I</p> <p>7 don't do speaking objections. Second,</p> <p>8 if we're going to have one objection,</p> <p>9 can we have one objection from</p> <p>10 everyone so this doesn't turn into a</p> <p>11 filibuster, so...</p> <p>12 MR. BARNES: I gave you the</p> <p>13 basis for the objection to give you an</p> <p>14 opportunity to cure it.</p> <p>15 MR. PATTON: With all respect,</p> <p>16 I'll ask you if I need guidance in</p> <p>17 curing an objection. I'm pretty good</p> <p>18 at understanding objections.</p> <p>19 MR. BARNES: I'm just trying to</p> <p>20 help.</p> <p>21 MR. PATTON: Thank you.</p> <p>22 MR. DAVIS: I'll additionally</p> <p>23 object to a lack of foundation for all</p> <p>24 questions about this document.</p> <p>25 MR. PATTON: Let's do this:</p>	<p style="text-align: right;">Page 40</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 time was still assessing the scope of the</p> <p>3 issue, what would be the potential impact on</p> <p>4 the retail industry because of this issue,</p> <p>5 what was happening in other industries,</p> <p>6 particularly food service, fast food</p> <p>7 restaurants with the issue.</p> <p>8 Q. And it also mentions FMI is</p> <p>9 analyzing existing published industry</p> <p>10 standards including McDonald's. Was that the</p> <p>11 case?</p> <p>12 A. McDonald's had -- because of</p> <p>13 the protests that were being brought about by</p> <p>14 PETA directly against McDonald's, McDonald's</p> <p>15 did start to publish some actions that they</p> <p>16 would take as part of their own personal</p> <p>17 requirements of their suppliers.</p> <p>18 Q. Why would the FMI look to</p> <p>19 McDonald's guidelines?</p> <p>20 A. Well, basically we were trying</p> <p>21 to see what was the basis of those</p> <p>22 guidelines, were they science based, were</p> <p>23 they using experts, or were they only</p> <p>24 responding to the demands of PETA.</p> <p>25 Q. There's another entry there</p>
<p style="text-align: right;">Page 39</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 I'll press forward with my question.</p> <p>3 BY MR. PATTON:</p> <p>4 Q. Were you aware whether or not</p> <p>5 in the early development stages retail</p> <p>6 industry had a direct role or do you know</p> <p>7 what that refers to?</p> <p>8 A. One of the things that the</p> <p>9 retailers had mentioned, and it's just a</p> <p>10 fact, is that at the retail store level, they</p> <p>11 do not have direct oversight of how an animal</p> <p>12 is raised. And they felt that they were</p> <p>13 somewhat removed from that. They deal</p> <p>14 directly with their suppliers of food. They</p> <p>15 don't necessarily work in the business of</p> <p>16 purchasing or care for animals.</p> <p>17 Q. If you turn to the second page</p> <p>18 of this document, and this is really my</p> <p>19 point, it identifies a date of December 14,</p> <p>20 2000. Do you see that?</p> <p>21 A. I do.</p> <p>22 Q. At this point in time, was --</p> <p>23 do you understand what is meant by "Currently</p> <p>24 in the...gathering phase?"</p> <p>25 A. That was still -- FMI at that</p>	<p style="text-align: right;">Page 41</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 that says FMI held a conference call with</p> <p>3 McDonald's. Were you privy to those</p> <p>4 discussions?</p> <p>5 MR. DAVIS: Objection.</p> <p>6 Misstates the document.</p> <p>7 THE WITNESS: Yes, I was on</p> <p>8 conference calls with McDonald's</p> <p>9 representative.</p> <p>10 BY MR. PATTON:</p> <p>11 Q. What was the substance or what</p> <p>12 was discussed in those calls?</p> <p>13 A. We were asking McDonald's what</p> <p>14 I just mentioned, what was driving their</p> <p>15 standards, what were they using as the</p> <p>16 science basis for their standards and whether</p> <p>17 or not they felt their standards were</p> <p>18 consistent with industry best practices.</p> <p>19 Q. At this point in time, had FMI</p> <p>20 conducted -- well, let me ask it this way:</p> <p>21 In point 3 there's an indication that FMI</p> <p>22 will conduct focus groups. Do you see that</p> <p>23 in paragraph 3?</p> <p>24 A. Yes.</p> <p>25 Q. Why was FMI interested in</p>

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<p style="text-align: right;">Page 42</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 conducting focus groups?</p> <p>3 A. One of the things we wanted to</p> <p>4 know, and we focus on this on a variety of</p> <p>5 issues on behalf of our members, and that is</p> <p>6 what is their customer's attitudes about</p> <p>7 issues. We do a lot of research on consumer</p> <p>8 trends, and this was in part looking at what</p> <p>9 does consumers feel about animal welfare</p> <p>10 issues.</p> <p>11 Q. There's also in point 5 here,</p> <p>12 an indication that "FMI will identify</p> <p>13 advisory council members..." Do you know</p> <p>14 what that refers to?</p> <p>15 A. FMI felt that we needed to</p> <p>16 reach out to get the expertise that could</p> <p>17 bring science-based decisions to this issue.</p> <p>18 And we felt that the best thing to do was to</p> <p>19 identify those people who are professionally</p> <p>20 recognized as animal welfare experts. And we</p> <p>21 started to look at who those people were,</p> <p>22 what their credentials were and how we might</p> <p>23 bring them together to work together to</p> <p>24 advise us on what are animal welfare issues.</p> <p>25 Q. So just to -- before we move on</p>	<p style="text-align: right;">Page 44</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. And you -- and the plan was to</p> <p>3 try to conduct focus groups going forward and</p> <p>4 to try to develop an advisory council?</p> <p>5 A. Yes.</p> <p>6 Q. Had FMI at this point in time</p> <p>7 in earnest started to evaluate the guidelines</p> <p>8 of individual industries?</p> <p>9 MR. DAVIS: Objection to form.</p> <p>10 THE WITNESS: We had begun to</p> <p>11 talk to the producer groups to</p> <p>12 identify which organizations already</p> <p>13 had animal welfare guidelines, how</p> <p>14 they -- what experts they used. So we</p> <p>15 had talked to them, but we had not</p> <p>16 begun any evaluation, per se, or</p> <p>17 analysis of what those guidelines</p> <p>18 were.</p> <p>19 BY MR. PATTON:</p> <p>20 Q. At that point in time, were</p> <p>21 you -- what knowledge do you have as to</p> <p>22 whether or not the UEP had already</p> <p>23 established guidelines?</p> <p>24 A. To the best of my knowledge,</p> <p>25 UEP would have told us in 2000 that they did</p>
<p style="text-align: right;">Page 43</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 to the year 2001, is it accurate that the FMI</p> <p>3 began to look at this in late 2001 as an</p> <p>4 issue?</p> <p>5 MR. DAVIS: Objection.</p> <p>6 THE WITNESS: We actually</p> <p>7 started looking at this issue</p> <p>8 initially in 2000.</p> <p>9 BY MR. PATTON:</p> <p>10 Q. Right. I'm sorry, in December</p> <p>11 of 2001 -- I'm sorry, let me start again.</p> <p>12 In December of 2000, was the</p> <p>13 FMI basically in the gathering phase as this</p> <p>14 document shows?</p> <p>15 A. Yes.</p> <p>16 Q. Was it -- had it yet developed</p> <p>17 the policy?</p> <p>18 MR. DAVIS: Objection.</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MR. PATTON:</p> <p>21 Q. It had?</p> <p>22 A. We had the outline of a policy.</p> <p>23 It had not yet been board approved, so it was</p> <p>24 not yet a policy. But we were working on the</p> <p>25 bullets of what would constitute a policy.</p>	<p style="text-align: right;">Page 45</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 have a guideline.</p> <p>3 Q. That they had already prepared?</p> <p>4 A. Yes.</p> <p>5 Q. Let me mark with you Exhibit 2</p> <p>6 to your deposition.</p> <p>7 - - -</p> <p>8 (Exhibit H-2, 1/2/01 Fax, Bates</p> <p>9 FMI-001153 - FMI-001162, was marked</p> <p>10 for identification.)</p> <p>11 - - -</p> <p>12 BY MR. PATTON:</p> <p>13 Q. Ms. Hollingsworth, I've</p> <p>14 identified -- Dr. Hollingsworth, I've</p> <p>15 identified a January 2, 2001, fax to several</p> <p>16 individuals from Karen Brown. And I would</p> <p>17 like to have you focus on what is -- well,</p> <p>18 there's three things identified here,</p> <p>19 background piece, animal welfare practice</p> <p>20 comparison and then a listing of animal</p> <p>21 groups. Do you see that?</p> <p>22 A. Uh-huh.</p> <p>23 Q. Yes?</p> <p>24 A. Right.</p> <p>25 Q. Yes?</p>

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<p style="text-align: right;">Page 46</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes. I'm sorry. Yeah. I'm</p> <p>3 sorry. Yes.</p> <p>4 Q. The second page of this</p> <p>5 document, is that the recommendation that you</p> <p>6 had mentioned earlier that was being made to</p> <p>7 the board regarding the policy?</p> <p>8 A. On the second page -- or the</p> <p>9 first page other than the cover page, the</p> <p>10 five bullets under "POLICY Suggestions" was</p> <p>11 the policy we had worked on.</p> <p>12 Q. At the top there's -- it says,</p> <p>13 "Background, Animal welfare issues, including</p> <p>14 animal husbandry practices and...slaughter..."</p> <p>15 To what industries did that</p> <p>16 apply, or to what producer industries, if you</p> <p>17 know?</p> <p>18 A. I don't think there was any</p> <p>19 particular one. I think we were talking</p> <p>20 about animals used for food in general.</p> <p>21 Q. So that would be beef, turkey,</p> <p>22 swine?</p> <p>23 A. Yes. Cattle for beef, dairy</p> <p>24 animals, poultry bulk for protein meat and</p> <p>25 for eggs, turkeys.</p>	<p style="text-align: right;">Page 48</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 "We are working to identify animal welfare</p> <p>3 organizations and academic experts..." What</p> <p>4 was FMI doing in that regard?</p> <p>5 A. As far as the academic experts,</p> <p>6 that was one of the things I was working on</p> <p>7 with universities looking at organizations</p> <p>8 that specifically have people who are</p> <p>9 identified as experts mainly by their</p> <p>10 degrees. They're all Ph.D.s or Doctors of</p> <p>11 Veterinary Medicine who have a specialty in</p> <p>12 man welfare and animal policies. I was,</p> <p>13 working on helping to identify them. And we</p> <p>14 were also looking at what were the animal</p> <p>15 activist organizations, so we basically knew</p> <p>16 who we would be working with in both areas.</p> <p>17 Q. And it also says that "We are</p> <p>18 exploring the need for consumer research..."</p> <p>19 Why was that necessary?</p> <p>20 A. Again, we wanted to have a</p> <p>21 clear understanding of what did the customer</p> <p>22 of the retail store feel about animal welfare</p> <p>23 and what did they expect retail stores to do</p> <p>24 about that issue.</p> <p>25 Q. Why was that important?</p>
<p style="text-align: right;">Page 47</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. So was it the intention of the</p> <p>3 policy to apply to all industries?</p> <p>4 A. Yes. Yes.</p> <p>5 Q. Now, where it says, "Current</p> <p>6 Activities," it lists out the fact that "FMI</p> <p>7 is gathering information from the producer</p> <p>8 community regarding current procedures..."</p> <p>9 What is that referring to?</p> <p>10 A. Are you referring to the</p> <p>11 sentence that says, "We are working to</p> <p>12 identify...organizations?" I'm sorry, can</p> <p>13 you tell me what -- I'm not sure what</p> <p>14 sentence.</p> <p>15 Q. Under "Current Activities" it</p> <p>16 says, "FMI is gathering information from the</p> <p>17 producer community..."</p> <p>18 Do you see that?</p> <p>19 A. We began to talk to the various</p> <p>20 commodity representative organizations to ask</p> <p>21 them did they have animal welfare guidelines,</p> <p>22 and in a very broad sense what parts of</p> <p>23 animal husbandry and animal practices did</p> <p>24 those guidelines cover.</p> <p>25 Q. Then the next sentence says,</p>	<p style="text-align: right;">Page 49</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Well, because if consumers said</p> <p>3 that they didn't think it was a problem, then</p> <p>4 that might change our focus. If consumers</p> <p>5 said this is an area we want you to focus on,</p> <p>6 we would share that with our members and say,</p> <p>7 yes, your customers care about this.</p> <p>8 Q. Now, it -- the "POLICY</p> <p>9 Suggestions" -- well, above the "POLICY</p> <p>10 Suggestions," there is a in bold heading</p> <p>11 reads, "Potential Policy and Program</p> <p>12 Components." And it says FMI -- "As FMI</p> <p>13 explores the appropriate role for our</p> <p>14 industry..." Why was FMI exploring its</p> <p>15 appropriate role for the industry?</p> <p>16 A. Again, that was largely</p> <p>17 consumer driven, it was looking at what do</p> <p>18 customers expect of retail stores.</p> <p>19 Q. Did the FMI have the power to</p> <p>20 tell producers what to do?</p> <p>21 A. No.</p> <p>22 Q. Was FMI viewing itself as</p> <p>23 fundamentally neutral in this process?</p> <p>24 A. FMI's position was to represent</p> <p>25 the wishes of our retail members. We're</p>

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<p style="text-align: right;">Page 50</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 member driven. We ask our members what would</p> <p>3 you like to do for -- how can we help you,</p> <p>4 what would you like us to do for you. So we</p> <p>5 were basically looking for what do retailers</p> <p>6 want, what can help them.</p> <p>7 Q. Could FMI tell its members what</p> <p>8 to do?</p> <p>9 A. No.</p> <p>10 MR. BARNES: Objection. Asked</p> <p>11 and answered.</p> <p>12 BY MR. PATTON:</p> <p>13 Q. I asked could it tell producers</p> <p>14 what to do. So this question is whether FMI</p> <p>15 had -- could FMI with its policy tell its</p> <p>16 individual members what to do?</p> <p>17 A. No. Our policies are only</p> <p>18 meant to represent a position that the board</p> <p>19 has agreed to, but they're always -- it's up</p> <p>20 to the individual company which policies they</p> <p>21 choose to use or modify or not use at all.</p> <p>22 Q. And over the years, had the FMI</p> <p>23 actually developed numerous policies in</p> <p>24 different areas besides welfare that you're</p> <p>25 aware of?</p>	<p style="text-align: right;">Page 52</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 work cooperatively with its counterparts?</p> <p>3 A. It was always our intent, and</p> <p>4 it's always our intent, to work with the</p> <p>5 entire food community so that we can have</p> <p>6 collaboration throughout the food chain.</p> <p>7 Q. By "food community," you mean</p> <p>8 all producer industries?</p> <p>9 MR. MCKENNEY: Objection. Form.</p> <p>10 THE WITNESS: I think by "food</p> <p>11 industry," we mean everyone in the</p> <p>12 food chain. And also it's not just</p> <p>13 the food chain, but it's also not just</p> <p>14 retail stores, but also restaurants</p> <p>15 and food service.</p> <p>16 BY MR. PATTON:</p> <p>17 Q. Was it more than just the egg</p> <p>18 industry?</p> <p>19 A. Oh, yes. It was everyone in</p> <p>20 the food supply chain.</p> <p>21 Q. Would it be fair to say that</p> <p>22 the intent was to develop a universal policy</p> <p>23 that applied to all welfare issues, not just</p> <p>24 one particular industry?</p> <p>25 MR. DAVIS: Objection. Form.</p>
<p style="text-align: right;">Page 51</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes, we have.</p> <p>3 Q. In any of those policies, was</p> <p>4 it ever the FMI's intent or purpose in</p> <p>5 requiring members to follow that policy?</p> <p>6 MR. DAVIS: Objection.</p> <p>7 THE WITNESS: They were always</p> <p>8 voluntary.</p> <p>9 BY MR. PATTON:</p> <p>10 Q. Now, if you look at the "POLICY</p> <p>11 Suggestions" on the lower part of this</p> <p>12 document that you have in front of you, it</p> <p>13 says, "FMI will work cooperatively with its</p> <p>14 counterparts in the food industry to promote</p> <p>15 production 'best practices' for each species</p> <p>16 that will strengthen food quality and safety,</p> <p>17 and ensure animal well-being at every step of</p> <p>18 the production process."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Was that one of the</p> <p>22 recommendations that was made to the FMI</p> <p>23 Board in developing a policy?</p> <p>24 A. Yes.</p> <p>25 Q. Why does it say that FMI will</p>	<p style="text-align: right;">Page 53</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 THE WITNESS: Yes.</p> <p>3 BY MR. PATTON:</p> <p>4 Q. Why is that?</p> <p>5 A. Because animal welfare is</p> <p>6 across the board for all animals. It's not</p> <p>7 just for cattle or chickens or turkeys, it</p> <p>8 was for all the food animals.</p> <p>9 Q. And retail stores carry more</p> <p>10 than just eggs. Right?</p> <p>11 A. They carry lots of products.</p> <p>12 Q. When -- well, I'm going to wait</p> <p>13 until I mark the policy, but if you turn</p> <p>14 several pages into this document, you'll see</p> <p>15 some comparative charts, and the way you can</p> <p>16 do that is with a Bates number that says FMI.</p> <p>17 Let's go to the one that says 1161. Do you</p> <p>18 see it's entitled "BEEF ANIMAL WELFARE</p> <p>19 PRACTICES COMPARISONS?"</p> <p>20 A. Yes.</p> <p>21 Q. What is this chart?</p> <p>22 MR. BARNES: Objection. There's</p> <p>23 no testimony that this witness has</p> <p>24 ever seen this document before.</p> <p>25 THE WITNESS: I am aware of this</p>



<p style="text-align: right;">Page 54</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 document, I do not know who put it</p> <p>3 together. I personally did not. As</p> <p>4 we had mentioned earlier in our early</p> <p>5 discussions looking into this issue,</p> <p>6 we had told our members that we would</p> <p>7 look at some of the animal welfare</p> <p>8 programs that were already in</p> <p>9 existence. And it appears that this</p> <p>10 represents some very generic</p> <p>11 statements as to what is included in</p> <p>12 our best practice guide.</p> <p>13 BY MR. PATTON:</p> <p>14 Q. Part of your deposition you're</p> <p>15 being asked questions as FMI's representative</p> <p>16 today. Right?</p> <p>17 A. Yes.</p> <p>18 Q. So my questions may go beyond</p> <p>19 just documents that you personally saw,</p> <p>20 but --</p> <p>21 A. Yes.</p> <p>22 Q. -- documents that were</p> <p>23 generated by the organization. Is that fair?</p> <p>24 A. And in that respect, this was</p> <p>25 an FMI document.</p>	<p style="text-align: right;">Page 56</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Was FMI comparing or at least</p> <p>3 measuring some other policies against</p> <p>4 McDonald's policy?</p> <p>5 A. We were not necessarily</p> <p>6 comparing against them as much as we wanted</p> <p>7 to have an awareness of what other companies</p> <p>8 were doing.</p> <p>9 Q. Do you have a view as to</p> <p>10 whether or not McDonald's policies as to</p> <p>11 animal welfare are good or bad or standard?</p> <p>12 MR. DAVIS: Objection.</p> <p>13 THE WITNESS: I really couldn't</p> <p>14 comment on what McDonald's was doing.</p> <p>15 BY MR. PATTON:</p> <p>16 Q. Where it indicates IBP, what</p> <p>17 does that refer to?</p> <p>18 A. IBP is a company called -- at</p> <p>19 the time they were called Iowa Beef</p> <p>20 Processors, and they were a very large cattle</p> <p>21 and beef producing organization, and they had</p> <p>22 guidelines that they used within their</p> <p>23 organization.</p> <p>24 Q. And then the AVMA, is that</p> <p>25 another -- what is that?</p>
<p style="text-align: right;">Page 55</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Now, tell me what this</p> <p>3 indicates. Is the FMI looking at various</p> <p>4 aspects of the slaughter and treatment of</p> <p>5 beef?</p> <p>6 MR. DAVIS: Objection.</p> <p>7 THE WITNESS: Well, this</p> <p>8 particular document is labeled as the</p> <p>9 "BEEF ANIMAL WELFARE PRACTICES..." So</p> <p>10 in this case this was regarding beef</p> <p>11 animals.</p> <p>12 BY MR. PATTON:</p> <p>13 Q. Where it says, "American Meat</p> <p>14 Institute," what does that refers to, are</p> <p>15 those guidelines?</p> <p>16 A. AMI, yes, that would be the</p> <p>17 American Meat Institute's, their industry</p> <p>18 best practices guidelines for beef animal</p> <p>19 welfare.</p> <p>20 Q. And then you also have</p> <p>21 McDonald's listed, why is that?</p> <p>22 A. McDonald's at that time, due to</p> <p>23 pressure primarily from PETA, were working on</p> <p>24 developing some of their own requirements for</p> <p>25 animal welfare.</p>	<p style="text-align: right;">Page 57</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. The AVMA is the American</p> <p>3 Veterinary Medical Association. And the AVMA</p> <p>4 had begun the process, they actually had</p> <p>5 formed an animal welfare component within the</p> <p>6 AVMA organization, and they also were</p> <p>7 starting to develop best practices for live</p> <p>8 animal handling.</p> <p>9 Q. So in this chart, is what</p> <p>10 you're doing is comparing all of these</p> <p>11 different standards or reviewing them?</p> <p>12 A. We were looking at what</p> <p>13 different organizations were already doing.</p> <p>14 And one of the things we were trying to focus</p> <p>15 on at that time is what are considered best</p> <p>16 practices and how are they being developed.</p> <p>17 Q. I see the word at the top</p> <p>18 "COMPARISONS," so that's why I'm trying to</p> <p>19 understand why FMI was comparing these</p> <p>20 different policies.</p> <p>21 A. Again, it was trying to</p> <p>22 determine what was the existing best practice</p> <p>23 and how were they being developed.</p> <p>24 Q. I'm going to ask you about best</p> <p>25 practice in a minute after we get through</p>

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<p style="text-align: right;">Page 58</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 this chart.</p> <p>3 If you turn the page to Bates</p> <p>4 numbered FMI 162, do you see that that is a</p> <p>5 poultry welfare practices comparison?</p> <p>6 A. Yes.</p> <p>7 Q. Why did the FMI prepare this</p> <p>8 chart or engage in this activity?</p> <p>9 A. For the same reasons that we</p> <p>10 were looking at all different animal</p> <p>11 programs. Again, we wanted to get a general</p> <p>12 sense of what was already in existence, what</p> <p>13 was considered to be best practices, and what</p> <p>14 organizations and groups were going about</p> <p>15 developing certain requirements as part -- or</p> <p>16 standards, I should say, for part of their</p> <p>17 best practices.</p> <p>18 Q. Part of -- under the poultry</p> <p>19 comparison, was FMI also looking at the</p> <p>20 National Chicken Council, for instance, for</p> <p>21 broiler chickens and the Turkey Federation?</p> <p>22 A. Yes.</p> <p>23 Q. And these two columns that had</p> <p>24 McDonald's and United Egg Producers, do you</p> <p>25 see that?</p>	<p style="text-align: right;">Page 60</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. And that position existed prior</p> <p>3 to the FMI having yet issued its own animal</p> <p>4 welfare policy?</p> <p>5 MR. DAVIS: Objection. Lacks</p> <p>6 foundation.</p> <p>7 THE WITNESS: This position had</p> <p>8 to exist at the time this was</p> <p>9 developed, so the date on this would</p> <p>10 be the time that this existed.</p> <p>11 BY MR. PATTON:</p> <p>12 Q. Now, where it says McDonald's,</p> <p>13 what does that indicate to you, that</p> <p>14 McDonald's has a housing requirement of</p> <p>15 72 square inches per cage?</p> <p>16 A. This was at a time when</p> <p>17 McDonald's was starting to issue their own</p> <p>18 animal welfare best practices or in their</p> <p>19 case as an individual company, what they were</p> <p>20 asking of their suppliers, again, in response</p> <p>21 to pressures they were receiving from</p> <p>22 activist groups.</p> <p>23 Q. In comparing the McDonald's and</p> <p>24 UEP guidelines in this chart, are there</p> <p>25 differences that you see between McDonald's</p>
<p style="text-align: right;">Page 59</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. Under the United Egg Producers</p> <p>4 heading, next to the activities such as</p> <p>5 housing disabled, slaughter, et cetera,</p> <p>6 you'll see entries. Do you see those?</p> <p>7 A. Yes.</p> <p>8 Q. Do you know where those entries</p> <p>9 came from?</p> <p>10 A. This appears to be research</p> <p>11 that was done to go to the -- ask these</p> <p>12 groups specifically what is your best</p> <p>13 practice position on each of these different</p> <p>14 categories.</p> <p>15 Q. And so in January, on</p> <p>16 January 2nd of 2001 when this document was</p> <p>17 created, had the UEP established a housing</p> <p>18 policy of 67 to 86 square inches?</p> <p>19 MR. DAVIS: Objection to form.</p> <p>20 THE WITNESS: It appears that</p> <p>21 this was information that was provided</p> <p>22 by UEP on what was their existing</p> <p>23 position on best practices for</p> <p>24 housing.</p> <p>25 BY MR. PATTON:</p>	<p style="text-align: right;">Page 61</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 and UEP?</p> <p>3 MR. DAVIS: Objection.</p> <p>4 THE WITNESS: There do appear to</p> <p>5 be differences in what they say in</p> <p>6 these boxes, yes.</p> <p>7 BY MR. PATTON:</p> <p>8 Q. Would one of those differences</p> <p>9 be that McDonald's had a cage space</p> <p>10 requirement of 72 inches by 2002 and the UEP</p> <p>11 had 67 square inches for 2012?</p> <p>12 A. Yes, that's what it says.</p> <p>13 Q. And McDonald's under the --</p> <p>14 well, do you see the heading that says forced</p> <p>15 molting?</p> <p>16 A. Yes.</p> <p>17 Q. What is forced hen molting?</p> <p>18 A. In general, forced molting is a</p> <p>19 practice whereby food and/or water are</p> <p>20 removed from poultry which then puts them</p> <p>21 into a molting process where they tend to</p> <p>22 lose feathers, grow new feathers and it puts</p> <p>23 them back into production cycles.</p> <p>24 Q. And that's done through food</p> <p>25 deprivation typically?</p>

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<p style="text-align: right;">Page 62</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Primarily through food.</p> <p>3 Sometimes from water deprivation also.</p> <p>4 Q. At this point in time, was</p> <p>5 there a difference between McDonald's policy</p> <p>6 and the UEP's policy as depicted on this</p> <p>7 chart?</p> <p>8 MR. DAVIS: Objection. Lacks</p> <p>9 foundation.</p> <p>10 THE WITNESS: In this chart,</p> <p>11 yes, it shows that McDonald's was</p> <p>12 taking the position that they would</p> <p>13 not -- they were opposed to forced</p> <p>14 molting. And in the UEP column it</p> <p>15 shows that they, in fact, said forced</p> <p>16 molting was an acceptable practice.</p> <p>17 BY MR. PATTON:</p> <p>18 Q. Is that an important or</p> <p>19 significant difference in your mind?</p> <p>20 MR. DAVIS: Objection.</p> <p>21 THE WITNESS: Later it became</p> <p>22 important to us. Well, obviously</p> <p>23 there are differences in the chart.</p> <p>24 And later it did become important to</p> <p>25 us because it was one of the issues</p>	<p style="text-align: right;">Page 64</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 MR. PATTON: Yes.</p> <p>3 BY MR. PATTON:</p> <p>4 Q. And, Ms. Hollingsworth, can you</p> <p>5 identify this as the board approved animal</p> <p>6 welfare policy dated January 14, 2001?</p> <p>7 A. Yes, it appears to be that.</p> <p>8 Q. So if we look at Exhibit 2, and</p> <p>9 then Exhibit 3, we see that a recommendation</p> <p>10 was made on January 2, 2001, and policy</p> <p>11 suggestions were made. And then on</p> <p>12 January 14th the board approved an animal</p> <p>13 welfare policy?</p> <p>14 A. Yes.</p> <p>15 Q. Were you involved at all in the</p> <p>16 process of making policy suggestions or</p> <p>17 answering questions that the board may have</p> <p>18 had during this time period?</p> <p>19 A. Yes, I was.</p> <p>20 Q. Where it says that in point 2,</p> <p>21 that the "FMI will work cooperatively with</p> <p>22 its counterparts in the food industry to</p> <p>23 promote production 'best practices'..." let's</p> <p>24 talk about best practices. What does that</p> <p>25 mean to you and what did it mean to the FMI?</p>
<p style="text-align: right;">Page 63</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 that our experts identified as</p> <p>3 something that needed to be</p> <p>4 scientifically studied and further</p> <p>5 addressed.</p> <p>6 BY MR. PATTON:</p> <p>7 Q. Let's move on to the</p> <p>8 development of the board policy. I'm going</p> <p>9 to hand you what's been marked as Exhibit 3</p> <p>10 to your deposition.</p> <p>11 - - -</p> <p>12 (Exhibit H-3, 1/14/01 Board</p> <p>13 approved animal welfare policy, Bates</p> <p>14 KRGE00020461, was marked for</p> <p>15 identification.)</p> <p>16 - - -</p> <p>17 MR. BURKE: Would you mind</p> <p>18 providing Bates numbers for those of</p> <p>19 us on the phone?</p> <p>20 MR. PATTON: Sure. This is the</p> <p>21 board policy approved by the FMI, and</p> <p>22 it's Bates stamp KRGE00020461.</p> <p>23 MR. DAVIS: Are you similarly</p> <p>24 waiving your designation for this</p> <p>25 document?</p>	<p style="text-align: right;">Page 65</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Best practices incorporated two</p> <p>3 things, one is what is the current practice</p> <p>4 and what, based on science, would experts</p> <p>5 advise as being practices that were</p> <p>6 reasonable, implementable and the industry</p> <p>7 could do to improve animal welfare.</p> <p>8 Q. When you say "reasonable," what</p> <p>9 do you mean?</p> <p>10 A. Reasonable in the sense that</p> <p>11 they are doable.</p> <p>12 Q. That they're ascertainable, not</p> <p>13 just aspirational?</p> <p>14 A. Yes.</p> <p>15 Q. And I think you said</p> <p>16 implementable, too, I don't know if that's a</p> <p>17 word, but is that the same concept, for best</p> <p>18 practices to work, they have to be reasonably</p> <p>19 implemented?</p> <p>20 A. They have to be something that</p> <p>21 can be done by the industry, yes.</p> <p>22 Q. And was the goal in best</p> <p>23 practices to develop a policy that applied to</p> <p>24 all organizations or does best practices mean</p> <p>25 that it would apply to a single industry as</p>

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<p style="text-align: right;">Page 66</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 opposed to all industries?</p> <p>3 MR. DAVIS: Objection to form.</p> <p>4 BY MR. PATTON:</p> <p>5 Q. Let me rephrase that question.</p> <p>6 My understanding of the term</p> <p>7 "best practice" is that it's a process of</p> <p>8 developing a standard for multiple</p> <p>9 organizations to follow and not merely</p> <p>10 narrowly tailored to a specific industry.</p> <p>11 MR. DAVIS: Objection.</p> <p>12 BY MR. PATTON:</p> <p>13 Q. So my question is not leading,</p> <p>14 would you agree or disagree with that</p> <p>15 concept?</p> <p>16 MR. DAVIS: Objection.</p> <p>17 THE WITNESS: Best practices is</p> <p>18 a term that would apply to all</p> <p>19 industries, although they may not be</p> <p>20 identical. What is best practice for</p> <p>21 a cow may not be a best practice for a</p> <p>22 chicken.</p> <p>23 BY MR. PATTON:</p> <p>24 Q. Now -- and is that why FMI</p> <p>25 really could only develop a policy, because</p>	<p style="text-align: right;">Page 68</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 that be taken into consideration?</p> <p>3 MR. DAVIS: Objection.</p> <p>4 THE WITNESS: It would be taken</p> <p>5 into consideration. However, in this</p> <p>6 particular case, and I may be jumping</p> <p>7 ahead here, but when we looked at</p> <p>8 things that were challenges, we then</p> <p>9 said can we target to get to those</p> <p>10 points where we have improvement. It</p> <p>11 was meant to be a continuous</p> <p>12 improvement process.</p> <p>13 BY MR. PATTON:</p> <p>14 Q. Now, with this policy, did the</p> <p>15 FMI have the power or the authority to</p> <p>16 require its members to follow this policy?</p> <p>17 MR. BARNES: Objection. Asked</p> <p>18 and answered.</p> <p>19 MR. DAVIS: Objection.</p> <p>20 THE WITNESS: None of our</p> <p>21 policies are required to be followed.</p> <p>22 They are provided to the members to</p> <p>23 individually make their decision if</p> <p>24 they want to follow it.</p> <p>25 BY MR. PATTON:</p>
<p style="text-align: right;">Page 67</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 it couldn't get any more specific?</p> <p>3 MR. DAVIS: Objection to form.</p> <p>4 MR. MCKENNEY: Objection.</p> <p>5 Leading.</p> <p>6 THE WITNESS: No. The intent of</p> <p>7 the policy was to establish a position</p> <p>8 that all retailers could agree to,</p> <p>9 that they felt they could support</p> <p>10 this. This type of policy was not</p> <p>11 meant to be specifically detailed, but</p> <p>12 to be generic and across the board.</p> <p>13 BY MR. PATTON:</p> <p>14 Q. Now, are there limitations on</p> <p>15 best practices such as feasibility?</p> <p>16 A. Yes, there can be.</p> <p>17 Q. And can you expand on that from</p> <p>18 your perspective?</p> <p>19 A. But if it's not feasible, then</p> <p>20 it wouldn't be a best practice. If you can't</p> <p>21 do something, then it can't be a best</p> <p>22 practice.</p> <p>23 Q. If a particular industry, for</p> <p>24 instance, were to say it's just impossible,</p> <p>25 we can't do that, would you take -- would</p>	<p style="text-align: right;">Page 69</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Was the purpose of this policy</p> <p>3 to require members to accept or adopt any</p> <p>4 industry's particular guidelines?</p> <p>5 MR. DAVIS: Objection.</p> <p>6 Foundation.</p> <p>7 THE WITNESS: No, it's entirely</p> <p>8 up to the members to make voluntary</p> <p>9 decisions.</p> <p>10 BY MR. PATTON:</p> <p>11 Q. That would have been true, yes</p> <p>12 or no, for the beef, pork, turkey, veal,</p> <p>13 broiler chicken and egg industry as well?</p> <p>14 A. Yes, for all of them.</p> <p>15 Q. Did the FMI, by issuing this</p> <p>16 policy, intend to adopt a specific industry's</p> <p>17 guidelines as its own?</p> <p>18 A. No. It was not our intent to</p> <p>19 have an adoption of a program.</p> <p>20 Q. By adopting this policy, was it</p> <p>21 ever the intent of FMI to require that its</p> <p>22 members, for instance, buy only UEP certified</p> <p>23 eggs?</p> <p>24 MR. DAVIS: Objection.</p> <p>25 THE WITNESS: No.</p>

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<p style="text-align: right;">Page 70</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. PATTON:</p> <p>3 Q. Did the FMI ever tell its</p> <p>4 members that they had to buy only UEP</p> <p>5 certified eggs?</p> <p>6 A. No.</p> <p>7 Q. Was a retailer free under this</p> <p>8 policy to buy eggs from whomever it wanted?</p> <p>9 A. Yes.</p> <p>10 Q. If an egg farmer, for instance,</p> <p>11 this is a hypothetical, but under this policy</p> <p>12 I want to ask it, if a farmer, for instance,</p> <p>13 had one farm that was compliant with</p> <p>14 McDonald's standards and another farm that</p> <p>15 was compliant with UEP standards, was the</p> <p>16 retailer free to pick and choose if it wanted</p> <p>17 to buy under the McDonald's as opposed to the</p> <p>18 UEP?</p> <p>19 A. Yes.</p> <p>20 MR. DAVIS: Objection to form.</p> <p>21 Excuse me one second. Dr.</p> <p>22 Hollingsworth, if you could just give</p> <p>23 me a moment to interpose an objection.</p> <p>24 THE WITNESS: I'm sorry. Okay.</p> <p>25 MR. DAVIS: Thank you.</p>	<p style="text-align: right;">Page 72</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 with ever developing animal welfare</p> <p>3 processes?</p> <p>4 MR. DAVIS: Objection to form.</p> <p>5 BY MR. PATTON:</p> <p>6 Q. That's a mouthful.</p> <p>7 A. I'm not sure I understand the</p> <p>8 question.</p> <p>9 Q. Well, it says FMI here will</p> <p>10 work with suppliers to communicate examples</p> <p>11 of best practices in order to maintain</p> <p>12 consumer confidences. Was that a forward</p> <p>13 looking statement?</p> <p>14 A. Yes.</p> <p>15 Q. Now, after -- let me -- before</p> <p>16 we leave subject, did FMI adopt any other</p> <p>17 policy on animal welfare after this or was</p> <p>18 this it?</p> <p>19 A. This one has been recently</p> <p>20 revised.</p> <p>21 Q. And how recently?</p> <p>22 A. In 2012.</p> <p>23 Q. But from 2001, when it was</p> <p>24 adopted, through 2012, this was the only</p> <p>25 animal welfare policy issued by FMI. Right?</p>
<p style="text-align: right;">Page 71</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. PATTON:</p> <p>3 Q. Did the FMI, through this</p> <p>4 policy, did it ever require that its members</p> <p>5 buy from egg producers that were only 100</p> <p>6 percent compliant with a particular</p> <p>7 guideline --</p> <p>8 A. No.</p> <p>9 Q. -- like the UEP guideline?</p> <p>10 A. I'm sorry. I missed the first</p> <p>11 part. I'm not sure. Were they?</p> <p>12 Q. I stepped on your -- was the</p> <p>13 purpose of this policy to require FI</p> <p>14 members -- FMI members to purchase from</p> <p>15 producers that were only 100 percent</p> <p>16 compliant with the UEP guidelines?</p> <p>17 A. No.</p> <p>18 MR. DAVIS: Objection to form.</p> <p>19 THE WITNESS: I'm sorry. No.</p> <p>20 BY MR. PATTON:</p> <p>21 Q. Now, if we go back to this</p> <p>22 policy, would it be fair to say that in many</p> <p>23 ways this policy was forward looking and sort</p> <p>24 of a work in progress, as things evolved, the</p> <p>25 FMI would encourage suppliers to stay updated</p>	<p style="text-align: right;">Page 73</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Correct.</p> <p>3 Q. Did FMI adopt as its own any</p> <p>4 particular industry's guidelines?</p> <p>5 A. No.</p> <p>6 Q. Like the beef industry or like</p> <p>7 the egg industry, did the FMI say we're going</p> <p>8 to adopt that guideline and promote it as our</p> <p>9 own?</p> <p>10 A. No.</p> <p>11 Q. This is all it ever issued. Is</p> <p>12 that right?</p> <p>13 MR. DAVIS: Objection.</p> <p>14 THE WITNESS: Yes.</p> <p>15 BY MR. PATTON:</p> <p>16 Q. Let me mark next in order</p> <p>17 Exhibit 4 to your deposition.</p> <p>18 - - -</p> <p>19 (Exhibit H-4, 2/2/01 Fax, Bates</p> <p>20 KRGE00020448 - KRGE00020460, was</p> <p>21 marked for identification.)</p> <p>22 - - -</p> <p>23 BY MR. PATTON:</p> <p>24 Q. Now, Ms. Hollingsworth, I've</p> <p>25 placed in front of you a fax bearing Bates</p>

<p style="text-align: right;">Page 74</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 number KRGE00020448. I waive the</p> <p>3 confidentially -- confidential designation on</p> <p>4 this document. It is a multipage document</p> <p>5 from Karen Brown. And as FMI's corporate</p> <p>6 representative, I'd like to ask you some</p> <p>7 questions about this document.</p> <p>8 A. All right. Yes.</p> <p>9 Q. You'll see that attached is a</p> <p>10 work plan and an unedited report of a</p> <p>11 consumer focus group.</p> <p>12 A. Yes.</p> <p>13 Q. The fax is dated February of</p> <p>14 2001?</p> <p>15 A. Yes.</p> <p>16 Q. What is -- if you turn the</p> <p>17 page, what is this work plan?</p> <p>18 A. This was a plan that FMI had</p> <p>19 put together for their next steps in how they</p> <p>20 would proceed following the approval of the</p> <p>21 board policy.</p> <p>22 Q. Now, if we look at the time</p> <p>23 period December 1 through January 5, it</p> <p>24 indicates that during that time period some</p> <p>25 activity had already occurred. Is that</p>	<p style="text-align: right;">Page 76</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 apprised of what we were doing. And we did</p> <p>3 tell them that we were trying to identify</p> <p>4 those organizations that already had</p> <p>5 guidelines. And we also told them that we</p> <p>6 would be presenting to our board a policy for</p> <p>7 their review and approval.</p> <p>8 Q. And if you actually go down,</p> <p>9 you'll see it says, "Prepare and send to</p> <p>10 Board proposed policy and background Board</p> <p>11 discussion." Is that what we saw in one of</p> <p>12 the prior exhibits?</p> <p>13 A. That actually would have been</p> <p>14 sent prior to the actual board meeting. We</p> <p>15 would always give the board an opportunity to</p> <p>16 look at those policies we were going to ask</p> <p>17 them to vote on.</p> <p>18 Q. And I think -- and is that what</p> <p>19 we saw in Exhibit 2, the recommendation?</p> <p>20 A. It would have been this</p> <p>21 information. This is not the exact package</p> <p>22 that we sent to the board members, but this</p> <p>23 would have been the information we sent.</p> <p>24 Q. Then you can keep Exhibit 2 out</p> <p>25 as well. Where it says, "Develop a matrix of</p>
<p style="text-align: right;">Page 75</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 right?</p> <p>3 A. Yes. Those things that had</p> <p>4 happened in January and early February, these</p> <p>5 were things that we had already put in place</p> <p>6 or accomplished.</p> <p>7 Q. Does the December 1 date</p> <p>8 refresh your recollection as to when</p> <p>9 activities really started from the FMI's</p> <p>10 perspective?</p> <p>11 MR. DAVIS: Objection to form.</p> <p>12 Asked and answered.</p> <p>13 THE WITNESS: Yes. These</p> <p>14 indicate things that would have been</p> <p>15 done throughout the month of December</p> <p>16 up to and including the day of the</p> <p>17 board meeting.</p> <p>18 BY MR. PATTON:</p> <p>19 Q. And where it says on bullet two</p> <p>20 under December 1, "Undertake formal meetings</p> <p>21 with the producer community...", what</p> <p>22 happened in that regard, if you recall?</p> <p>23 A. We were informally talking to</p> <p>24 the various animal commodity groups. We</p> <p>25 always worked with them and kept them</p>	<p style="text-align: right;">Page 77</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 federal regulations, veterinary community</p> <p>3 guidelines, current industry guidelines...,</p> <p>4 animal rights organization demands and</p> <p>5 McDonald's guidelines," is that the matrix</p> <p>6 that we saw attached to Exhibit 2?</p> <p>7 A. That is the chart, yes.</p> <p>8 Q. So we already looked at that?</p> <p>9 A. Yes.</p> <p>10 Q. And those were the comparison</p> <p>11 charts. Is that right?</p> <p>12 A. Yes.</p> <p>13 Q. Now, in January -- the heading</p> <p>14 January 6 to January 31, it says, "Secure</p> <p>15 Board consensus on policy and program</p> <p>16 components." Is that the approval of the</p> <p>17 animal welfare policy that we saw in</p> <p>18 Exhibit 3?</p> <p>19 A. Yes.</p> <p>20 Q. It also says, "Conduct focus</p> <p>21 groups." Was -- at this point in time had</p> <p>22 FMI conducted focus group studies?</p> <p>23 A. I would have to look at the</p> <p>24 exact dates when we did those studies.</p> <p>25 Q. Well, actually if you turn a</p>

20 (Pages 74 - 77)

<p style="text-align: right;">Page 78</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 few pages farther into the document, do you</p> <p>3 actually see a Kinzey &amp; Day document that's a</p> <p>4 focus group study?</p> <p>5 A. Yes.</p> <p>6 Q. If you look at the first page</p> <p>7 of the document, it actually says, the</p> <p>8 unedited report of the consumer focus groups</p> <p>9 report that we did?</p> <p>10 A. Yes.</p> <p>11 Q. So do you think those are the</p> <p>12 studies?</p> <p>13 A. Yes, these are the studies that</p> <p>14 we did.</p> <p>15 Q. Now, sticking the timeline or</p> <p>16 work plan, if you turn to the third page of</p> <p>17 the document, there is in the time period</p> <p>18 indicated from "March to June," you have</p> <p>19 "Form Advisory Council." Was it the intent</p> <p>20 at this time to try to put an advisory</p> <p>21 council together in the March and June 2001</p> <p>22 time period?</p> <p>23 A. Yes, we had already begun to</p> <p>24 talk to animal welfare experts to determine</p> <p>25 who were people that we would look to as</p>	<p style="text-align: right;">Page 80</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 groups, was it?</p> <p>3 MR. DAVIS: Objection.</p> <p>4 THE WITNESS: No, it was to</p> <p>5 gather information.</p> <p>6 BY MR. PATTON:</p> <p>7 Q. Now, if you turn to the focus</p> <p>8 group report for McKinzey &amp; Day -- I'm sorry,</p> <p>9 Kinzey &amp; Day, and you turn to the third page</p> <p>10 entitled, "PURPOSE AND SCOPE."</p> <p>11 A. Yes.</p> <p>12 Q. And it -- was it your</p> <p>13 understanding that the group, the focus</p> <p>14 groups were undertaken to evaluate attitudes</p> <p>15 toward animal welfare issues in the context</p> <p>16 of grocery shopping, perceptions of animal</p> <p>17 welfare and awareness of PETA?</p> <p>18 A. Yes.</p> <p>19 Q. What was your -- what's your</p> <p>20 understanding of what this focus group report</p> <p>21 revealed?</p> <p>22 MR. DAVIS: Objection. Lacks</p> <p>23 foundation.</p> <p>24 BY MR. PATTON:</p> <p>25 Q. Let me lay some foundation.</p>
<p style="text-align: right;">Page 79</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 advisors and also who was willing and</p> <p>3 interested in doing this.</p> <p>4 Q. Why were you looking to</p> <p>5 scientific experts?</p> <p>6 A. Because we wanted any --</p> <p>7 anything that we did in this field, we felt</p> <p>8 we wanted it to be justifiable and science</p> <p>9 based. So we had to go to the experts for</p> <p>10 that.</p> <p>11 Q. Now, it also states that there</p> <p>12 is a goal here in February to meet and</p> <p>13 solicit information from the American Humane</p> <p>14 Association and other advocacy groups. Did</p> <p>15 the FMI talk to advocacy groups as well?</p> <p>16 A. Yes, we did.</p> <p>17 Q. Why is that?</p> <p>18 A. We wanted -- two reasons. One</p> <p>19 was to hear directly from them what were</p> <p>20 their concerns, what were their issues. And</p> <p>21 then also to make them aware of what we</p> <p>22 intended to do and how we intended to go</p> <p>23 forward on the issue.</p> <p>24 Q. It wasn't FMI's objective to</p> <p>25 favor one set of producers over an activist</p>	<p style="text-align: right;">Page 81</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 You knew that a focus group was conducted.</p> <p>3 Right?</p> <p>4 A. Yes.</p> <p>5 Q. And at some point had you</p> <p>6 reviewed their findings?</p> <p>7 A. Yes. I saw this final report,</p> <p>8 or this report when it was made available.</p> <p>9 Q. If you turn to page 4 of this</p> <p>10 report where it's entitled -- and then it's</p> <p>11 Bates number 20456. Do you see some of the</p> <p>12 key findings?</p> <p>13 A. Yes.</p> <p>14 Q. Based on this report, was one</p> <p>15 of the key findings -- well, let me back up.</p> <p>16 Do you understand that this</p> <p>17 report was -- the focus groups were performed</p> <p>18 by interviewing shoppers?</p> <p>19 A. Yes.</p> <p>20 Q. And one of the key findings is</p> <p>21 that it says, "Animal welfare, at least as it</p> <p>22 pertains to grocery products, is a very low</p> <p>23 level concern for virtually all of the</p> <p>24 participants."</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 82</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. And can you expand on that or</p> <p>3 explain what that means?</p> <p>4 MR. DAVIS: Objection. Lacks</p> <p>5 foundation. Calls for a narrative.</p> <p>6 THE WITNESS: Consumers</p> <p>7 indicated to us that when they are in</p> <p>8 a food store shopping and purchasing</p> <p>9 food, they don't necessarily direct</p> <p>10 that -- directly relate that to the</p> <p>11 animal that was raised to produce that</p> <p>12 food.</p> <p>13 BY MR. PATTON:</p> <p>14 Q. Based on this information</p> <p>15 gathering process that you were involved in,</p> <p>16 was it the finding or the view of FMI that</p> <p>17 animal welfare was a very low level concern</p> <p>18 for shoppers?</p> <p>19 MR. DAVIS: Objection.</p> <p>20 THE WITNESS: That was the</p> <p>21 report and the findings from the</p> <p>22 organization that did those</p> <p>23 interviews, yes.</p> <p>24 BY MR. PATTON:</p> <p>25 Q. Is it your understanding that</p>	<p style="text-align: right;">Page 84</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 of page 5, Bates numbered 457, it indicates</p> <p>3 that some participants did say that they</p> <p>4 would become concerned if some credible</p> <p>5 source accused their grocery chain of selling</p> <p>6 products that were derived from animals that</p> <p>7 had been inhumanely treated. Do you see</p> <p>8 that?</p> <p>9 A. I do not. Can you be more</p> <p>10 specific as to what bullet?</p> <p>11 Q. The last bullet point down at</p> <p>12 the bottom, "Some participants....," on page</p> <p>13 5.</p> <p>14 A. Yes, I see it now. Thank you.</p> <p>15 Q. Then let's carry that over to</p> <p>16 the next bullet that said most</p> <p>17 participants...of news programs such as 60</p> <p>18 Minutes and Dateline are viewed as credible.</p> <p>19 A. Yes, I see that.</p> <p>20 Q. What was your understanding</p> <p>21 of -- what do you understand that reference</p> <p>22 to be?</p> <p>23 MR. DAVIS: Objection. Lacks</p> <p>24 foundation.</p> <p>25 THE WITNESS: We understood that</p>
<p style="text-align: right;">Page 83</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 when people are in -- shoppers are in grocery</p> <p>3 stores, they don't want to think about how</p> <p>4 the animal is treated or where their food</p> <p>5 came from, just as long as it was safe?</p> <p>6 MR. DAVIS: Objection. Lacks</p> <p>7 foundation.</p> <p>8 THE WITNESS: That was the</p> <p>9 finding in the report.</p> <p>10 BY MR. PATTON:</p> <p>11 Q. Do you agree with that?</p> <p>12 MR. DAVIS: Objection. Lacks</p> <p>13 foundation.</p> <p>14 THE WITNESS: FMI relied on this</p> <p>15 focus group, so we trusted their</p> <p>16 information to us and what they said.</p> <p>17 BY MR. PATTON:</p> <p>18 Q. Well, the reason I ask that is</p> <p>19 it says, "Almost all participants said that</p> <p>20 they do not consciously think of animals when</p> <p>21 they buy leather or even when they buy meat</p> <p>22 products." Is that the view?</p> <p>23 A. That is correct. That was the</p> <p>24 finding.</p> <p>25 Q. Now, if you turn to the bottom</p>	<p style="text-align: right;">Page 85</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 to mean that of the consumers that</p> <p>3 were included in this survey, that</p> <p>4 they would pay attention to what they</p> <p>5 were hearing if it came from a source</p> <p>6 that they trusted, and that it would</p> <p>7 concern them if that trusted source</p> <p>8 told them that there was a problem.</p> <p>9 BY MR. PATTON:</p> <p>10 Q. Now, the next bullet -- so if</p> <p>11 there was a report on 60 Minutes or 20/20,</p> <p>12 that would be a problem?</p> <p>13 A. The consumers in this survey</p> <p>14 indicated that they would believe that</p> <p>15 information and it would cause them concern.</p> <p>16 Q. And then the next bullet reads,</p> <p>17 most participants do not think of PETA as</p> <p>18 being credible. What is that -- what is your</p> <p>19 understanding of what that means?</p> <p>20 MR. BARNES: Objection to form.</p> <p>21 THE WITNESS: The response from</p> <p>22 the consumers was that unlike those</p> <p>23 organizations or media sources that</p> <p>24 they identified as credible like</p> <p>25 60 Minutes and Dateline, when asked</p>

22 (Pages 82 - 85)



<p style="text-align: right;">Page 86</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 about PETA, they did not give PETA</p> <p>3 that same degree of credibility.</p> <p>4 BY MR. PATTON:</p> <p>5 Q. It indicates most participants</p> <p>6 said that PETA is too extreme.</p> <p>7 A. That is correct.</p> <p>8 Q. And so PETA was, by this study,</p> <p>9 viewed as not a very credible organization.</p> <p>10 Is that right?</p> <p>11 MR. DAVIS: Objection. Leading.</p> <p>12 THE WITNESS: In this survey,</p> <p>13 PETA was identified as an organization</p> <p>14 that was extremist.</p> <p>15 BY MR. PATTON:</p> <p>16 Q. Now, if you go to the last two</p> <p>17 pages of the document, it says, "IMPLICATIONS</p> <p>18 FOR FOOD MARKETING INSTITUTE." Do you see</p> <p>19 the first recommendation that the FMI</p> <p>20 apparently does not need to take any direct</p> <p>21 communications efforts to assure the public</p> <p>22 that animals used in the production of animal</p> <p>23 products are treated humanely?</p> <p>24 A. That is correct.</p> <p>25 Q. That was one of the suggestions</p>	<p style="text-align: right;">Page 88</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. How did the suggestions by</p> <p>3 this -- or how did these focus group -- let</p> <p>4 me ask that question again.</p> <p>5 How did this report from the</p> <p>6 Kinzey &amp; Day marketing research firm based on</p> <p>7 these focus groups guide FMI going forward?</p> <p>8 MR. DAVIS: Objection.</p> <p>9 BY MR. PATTON:</p> <p>10 Q. If at all.</p> <p>11 A. These results did help guide</p> <p>12 us, but, again, these results were shared</p> <p>13 with our members. And we asked our members</p> <p>14 in light of this information, how would they</p> <p>15 like FMI to proceed in this matter.</p> <p>16 Q. Did it guide at all the</p> <p>17 members, the actual individuals at FMI who</p> <p>18 were working on a policy? Was it important</p> <p>19 information to you?</p> <p>20 MR. DAVIS: Objection.</p> <p>21 MR. BARNES: Objection. Form.</p> <p>22 Compound.</p> <p>23 BY MR. PATTON:</p> <p>24 Q. Let me ask it again.</p> <p>25 Was this useful information to</p>
<p style="text-align: right;">Page 87</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 being made by the focus group results.</p> <p>3 Right?</p> <p>4 A. Yes.</p> <p>5 Q. And the other one is that there</p> <p>6 are indications, however, that consumers</p> <p>7 could become aware that there were</p> <p>8 accusations of inhumane conduct that were</p> <p>9 made from a credible source such as 20/20?</p> <p>10 A. That is what they --</p> <p>11 MR. DAVIS: Objection. Form.</p> <p>12 THE WITNESS: That is what they,</p> <p>13 the group, said that they felt was one</p> <p>14 of the implications, yes.</p> <p>15 BY MR. PATTON:</p> <p>16 Q. And then if you go to point 3,</p> <p>17 it says, "...many participants would want a</p> <p>18 response from the grocery stores, ...even</p> <p>19 though the Food Marketing Institute does not</p> <p>20 need to take any direct action at the present</p> <p>21 time, the Institute would be prudent to watch</p> <p>22 the situation and be prepared to help chains</p> <p>23 respond, should the need arise." Was that</p> <p>24 also the suggestion made by this focus group?</p> <p>25 A. Yes, it was.</p>	<p style="text-align: right;">Page 89</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 the -- to you and your staff that were</p> <p>3 working on animal welfare issues at the time?</p> <p>4 A. Yes, it was.</p> <p>5 MR. PATTON: Let me turn to --</p> <p>6 let me mark another exhibit.</p> <p>7 - - -</p> <p>8 (Exhibit H-5, 4/14/01 Memo,</p> <p>9 Bates FMI-000686, was marked for</p> <p>10 identification.)</p> <p>11 - - -</p> <p>12 BY MR. PATTON:</p> <p>13 Q. This is Exhibit 5. Now, I want</p> <p>14 to move forward to the time period in April,</p> <p>15 and this is a memo from you to several</p> <p>16 individuals, Adele Douglass, Gail Golab,</p> <p>17 Temple Grandin and Joe Regenstein, dated</p> <p>18 April 13, 2001. Is that correct?</p> <p>19 A. Yes, it is.</p> <p>20 Q. I'll use this as a point of</p> <p>21 reference. Did it -- is there a point in</p> <p>22 time in April when you, and I mean you the</p> <p>23 FMI, had made some inroads in putting</p> <p>24 together an expert advisory panel?</p> <p>25 A. Yes. We had put together a</p>

23 (Pages 86 - 89)



<p style="text-align: right;">Page 90</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 panel, and the people on this memo were the</p> <p>3 first four people who we had approached who</p> <p>4 agreed to do this and we had put them on this</p> <p>5 committee.</p> <p>6 Q. Eventually I think Dr. Joy</p> <p>7 Mench and Dr. Swanson joined the committee as</p> <p>8 well. Is that right?</p> <p>9 A. They did, and also Dr. David</p> <p>10 Frasier.</p> <p>11 Q. What was Dr. Frasier's area of</p> <p>12 specialty or focus?</p> <p>13 A. He -- they were all animal</p> <p>14 welfare experts. He was from British</p> <p>15 Columbia, and his primary focus area was</p> <p>16 swine.</p> <p>17 Q. Were you aware that Drs. Mench</p> <p>18 and Swanson were also on the UEP Scientific</p> <p>19 Advisory Committee?</p> <p>20 MR. DAVIS: Objection.</p> <p>21 THE WITNESS: We were aware of</p> <p>22 that. The commodity groups that</p> <p>23 shared with us their existing</p> <p>24 guidelines indicated in those</p> <p>25 guidelines who were the experts they</p>	<p style="text-align: right;">Page 92</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 representatives to ascertain all current</p> <p>3 guidelines, policies and programs... We now</p> <p>4 need your assistance in reviewing these</p> <p>5 documents to determine if they are</p> <p>6 scientifically sound, practical, and in</p> <p>7 keeping with 'best practices' as identified</p> <p>8 by experts like yourself."</p> <p>9 Was that the mission, at least</p> <p>10 going forward, by April of 2001?</p> <p>11 A. Yes, it was.</p> <p>12 Q. And explain again how the</p> <p>13 concept of best practices was to play in the</p> <p>14 role of these experts in analyzing</p> <p>15 guidelines?</p> <p>16 MR. GREEN: Objection. Calls</p> <p>17 for a narrative.</p> <p>18 THE WITNESS: We asked our</p> <p>19 experts using their expertise and</p> <p>20 their knowledge of what the current</p> <p>21 state of science was, what were the</p> <p>22 best practices that they would</p> <p>23 recommend to the various commodity</p> <p>24 groups and whether or not those</p> <p>25 guidelines, in fact, included those</p>
<p style="text-align: right;">Page 91</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 worked with.</p> <p>3 BY MR. PATTON:</p> <p>4 Q. Now, in other producer</p> <p>5 communities like slaughter, beef, turkey,</p> <p>6 sheep, did they also have scientific</p> <p>7 committees that you were aware of?</p> <p>8 A. I can't say yes for sheep, but</p> <p>9 yes, there was certainly for both beef</p> <p>10 cattle, dairy cattle and turkeys.</p> <p>11 Q. Did any of those advisory</p> <p>12 council members sit on any of those</p> <p>13 committees as well?</p> <p>14 A. Yes, they did.</p> <p>15 Q. Not that many experts in this</p> <p>16 field, are there?</p> <p>17 A. It's a rather small community.</p> <p>18 Q. And so was it common that they</p> <p>19 would sit on a -- not surprising you may have</p> <p>20 an expert that sat on multiple advisory</p> <p>21 councils or panels?</p> <p>22 A. That's correct.</p> <p>23 Q. Now, in the second paragraph</p> <p>24 here you say, "As a first step, we met with</p> <p>25 all of the commodity groups and industry</p>	<p style="text-align: right;">Page 93</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 best practices.</p> <p>3 BY MR. PATTON:</p> <p>4 Q. Now, you go on to explain here</p> <p>5 that you've asked -- that you provided copies</p> <p>6 of industry guidelines and that you had asked</p> <p>7 the experts to review areas that they found</p> <p>8 weakness, that could be improved, areas that</p> <p>9 are acceptable given today's science and</p> <p>10 technology, and you asked them to prioritize</p> <p>11 these as gaps. Can you explain what you were</p> <p>12 asking there?</p> <p>13 A. Gaps became the term that was</p> <p>14 eventually coined and used to identify any</p> <p>15 practices or procedures in a guideline where</p> <p>16 the experts felt there was science to either</p> <p>17 justify or recommend a change or something</p> <p>18 different than what was in the existing</p> <p>19 guideline and also those areas where they</p> <p>20 felt there was emerging science and those</p> <p>21 things could be targeted for future</p> <p>22 employment.</p> <p>23 Q. When you said "recommend," are</p> <p>24 you saying that these experts could insist or</p> <p>25 require a producer to change?</p>

<p style="text-align: right;">Page 94</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 MR. DAVIS: Objection.</p> <p>3 MR. MCKENNEY: Objection.</p> <p>4 Leading.</p> <p>5 THE WITNESS: We were asking</p> <p>6 them only to provide recommendations</p> <p>7 for what could be improved.</p> <p>8 BY MR. PATTON:</p> <p>9 Q. And that was to the FMI.</p> <p>10 Right?</p> <p>11 A. Yes.</p> <p>12 Q. Now, at this point in time, who</p> <p>13 was the group, identify the members of the</p> <p>14 FMI group that was focusing on this animal</p> <p>15 welfare issue. By that I mean, was it Karen</p> <p>16 Brown and yourself?</p> <p>17 MR. BARNES: Object to the form.</p> <p>18 THE WITNESS: Karen Brown and I</p> <p>19 were given the lead on this project,</p> <p>20 looking at how do we go forward. The</p> <p>21 project was, of course, also directed</p> <p>22 by members and members explaining to</p> <p>23 us what their expectations were for</p> <p>24 what FMI would do.</p> <p>25 BY MR. PATTON:</p>	<p style="text-align: right;">Page 96</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 or forcing members to take positions. Is</p> <p>3 that a fair statement?</p> <p>4 MR. DAVIS: Objection.</p> <p>5 THE WITNESS: FMI has -- as an</p> <p>6 advocacy group we can't force members</p> <p>7 or anyone, even a nonmember to do</p> <p>8 anything.</p> <p>9 BY MR. PATTON:</p> <p>10 Q. Or to require action?</p> <p>11 A. Exactly. No, we cannot do</p> <p>12 that.</p> <p>13 Q. Now, let's turn to the time</p> <p>14 period June of 2001. Did you have or had the</p> <p>15 FMI received guidelines by June from all the</p> <p>16 various different producer communities or</p> <p>17 different industries?</p> <p>18 MR. DAVIS: Objection.</p> <p>19 THE WITNESS: We did from all</p> <p>20 the major ones that we contacted. We</p> <p>21 had decided that we would focus on the</p> <p>22 major commodities. So, for example,</p> <p>23 we did not have anything on lambs. We</p> <p>24 didn't do anything on seafood at that</p> <p>25 time. We were looking at the major</p>
<p style="text-align: right;">Page 95</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. What did you -- by "members,"</p> <p>3 what do you mean?</p> <p>4 A. Retail companies that we</p> <p>5 were -- that were part of our membership.</p> <p>6 Q. Were they looking for guidance</p> <p>7 from FMI?</p> <p>8 MR. DAVIS: Objection.</p> <p>9 THE WITNESS: They were looking</p> <p>10 for FMI to advise them on a way</p> <p>11 forward and how we would use the</p> <p>12 experts. They were not looking to FMI</p> <p>13 to provide them specifically with any</p> <p>14 of FMI's own guidance on animal</p> <p>15 welfare.</p> <p>16 BY MR. PATTON:</p> <p>17 Q. Because each -- is that because</p> <p>18 each member is still free to do whatever they</p> <p>19 wanted?</p> <p>20 MR. DAVIS: Objection. Leading.</p> <p>21 THE WITNESS: Yes.</p> <p>22 BY MR. PATTON:</p> <p>23 Q. And so FMI was in some ways</p> <p>24 limited in what they could actually</p> <p>25 accomplish with respect to forcing producers</p>	<p style="text-align: right;">Page 97</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 food commodities which was cattle,</p> <p>3 both beef and dairy; poultry, both</p> <p>4 eggs and meat production, and turkeys.</p> <p>5 BY MR. PATTON:</p> <p>6 Q. Did FMI --</p> <p>7 A. And swine. I'm sorry, and</p> <p>8 swine.</p> <p>9 Q. Did FMI focus or favor its</p> <p>10 analysis on any one of these industries in</p> <p>11 particular or was it objective and universal</p> <p>12 in its review?</p> <p>13 MR. DAVIS: Objection.</p> <p>14 THE WITNESS: It was objective</p> <p>15 and universal.</p> <p>16 - - -</p> <p>17 (Exhibit H-6, Animal Welfare</p> <p>18 Conference Call 6/6/01, Bates</p> <p>19 FMI-000680 - FMI-0006803, was marked</p> <p>20 for identification.)</p> <p>21 - - -</p> <p>22 BY MR. PATTON:</p> <p>23 Q. Let me hand you what's been</p> <p>24 marked as Exhibit 6 to your deposition.</p> <p>25 Exhibit 6 is a memorandum dated</p>

25 (Pages 94 - 97)

<p style="text-align: right;">Page 98</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Wednesday, June 6, 2001, regarding a</p> <p>3 conference call that was conducted by the</p> <p>4 FMI, and it indicates that you, among others,</p> <p>5 was a participate. Is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. And this document bears Bates</p> <p>8 number FMI 000680.</p> <p>9 A. Yes.</p> <p>10 Q. Now, it says that "After</p> <p>11 introductions, Karen reviewed the role of the</p> <p>12 expert review panel and FMI's intent to</p> <p>13 develop a set of retailer's expectations..."</p> <p>14 What do you recall Karen saying</p> <p>15 about the expert's role in the review?</p> <p>16 A. Primarily that the role of the</p> <p>17 experts would be to provide us scientific</p> <p>18 guidance and scientific justification.</p> <p>19 Q. Under the summary of general</p> <p>20 comments, do you know where these -- are</p> <p>21 these comments that had been provided by the</p> <p>22 advisory panel?</p> <p>23 A. These comments represent an</p> <p>24 entire discussion between the FMI</p> <p>25 representatives and the experts.</p>	<p style="text-align: right;">Page 100</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. And that makes sense. Right?</p> <p>3 A. It does make sense.</p> <p>4 Q. What is compliance is a much</p> <p>5 broader question. Would you agree?</p> <p>6 MR. BARNES: Objection. Form.</p> <p>7 THE WITNESS: Compliance can be</p> <p>8 difficult to measure. You have to</p> <p>9 have something -- a measurable</p> <p>10 requirement if you're going to</p> <p>11 actually say, yes, you were in</p> <p>12 compliance.</p> <p>13 BY MR. PATTON:</p> <p>14 Q. This concept of compliance, at</p> <p>15 this point in time, was it universal to all</p> <p>16 producer communities such as beef, cattle,</p> <p>17 turkey, not a particular industry?</p> <p>18 A. It was across the board. Some</p> <p>19 called it the compliance, some referred to it</p> <p>20 as conformity. Both of those terms are used,</p> <p>21 whether you conform at the standard or comply</p> <p>22 with it. They were interchangeable words.</p> <p>23 Q. Now, it says, "Temple estimates</p> <p>24 that...10% of the cattle industry does not</p> <p>25 comply with the standards. Those that are</p>
<p style="text-align: right;">Page 99</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. During this conference call,</p> <p>3 were any FMI members involved or participate?</p> <p>4 A. To my knowledge and</p> <p>5 recollection, this was only the three FMI</p> <p>6 participants and the experts.</p> <p>7 Q. So no members from any retailer</p> <p>8 group had any influence and participation in</p> <p>9 this discussion. Is that right?</p> <p>10 A. I don't believe they did.</p> <p>11 Q. Now, I'm going to go through</p> <p>12 some of these bullet points, but there's one</p> <p>13 that says, "To be effective, a standard must</p> <p>14 also have a means for measuring compliance."</p> <p>15 What does that refer to?</p> <p>16 A. The experts felt that you can</p> <p>17 write a really good guideline, but if you</p> <p>18 don't know if someone has implemented it or</p> <p>19 that they're implementing it correctly, then</p> <p>20 you really can't say that you've made a</p> <p>21 substantial impact on animal welfare. In</p> <p>22 other words, just writing a requirement or a</p> <p>23 standard, there has to be some way to</p> <p>24 demonstrate it's being practiced. That was</p> <p>25 the position of the experts.</p>	<p style="text-align: right;">Page 101</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 audited do a much better job."</p> <p>3 What was is she saying, if you</p> <p>4 recall, on the subject?</p> <p>5 MR. DAVIS: Objection.</p> <p>6 THE WITNESS: This was a</p> <p>7 statement made by Dr. Temple Grandin.</p> <p>8 Her expertise is in the beef cattle</p> <p>9 industry, and she felt that without</p> <p>10 auditing, a company or a company</p> <p>11 that's raising cattle does not</p> <p>12 necessarily comply or conform with all</p> <p>13 of the standards because they have not</p> <p>14 been assessed against those standards.</p> <p>15 BY MR. PATTON:</p> <p>16 Q. Now, there's also a bullet here</p> <p>17 that says, "Should strive for 'Acceptable</p> <p>18 Minimal Standard.'" What does that refer to?</p> <p>19 A. In the development of a</p> <p>20 standard or a guideline, we always take into</p> <p>21 account that there may be very small</p> <p>22 producers and very large producers. So we</p> <p>23 want to be sure that we have -- minimal is</p> <p>24 the term that's frequently used to say we</p> <p>25 have to have a standard that's achievable by</p>

<p style="text-align: right;">Page 102</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 all.</p> <p>3 Q. Was that part of FMI's</p> <p>4 objective or understanding in reviewing</p> <p>5 various industries' guidelines?</p> <p>6 A. When -- this, of course, was a</p> <p>7 statement that was made as part of a</p> <p>8 conference call, but we also felt that we did</p> <p>9 want to support guidelines that could be</p> <p>10 achieved by everyone.</p> <p>11 Q. Now, there's a last bullet</p> <p>12 point, and I just want to focus on the last</p> <p>13 sentence of the last bullet point on page 1,</p> <p>14 and it says, "Keeping animals alive and well</p> <p>15 should be the economic incentive, which also</p> <p>16 improves quality and productivity."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Explain to me what you</p> <p>20 understand that sentence to mean?</p> <p>21 MR. DAVIS: Objection.</p> <p>22 THE WITNESS: Just a moment so I</p> <p>23 can read the bullet so I have that in</p> <p>24 context.</p> <p>25 MR. GREEN: Are you asking her</p>	<p style="text-align: right;">Page 104</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 cost.</p> <p>3 BY MR. PATTON:</p> <p>4 Q. Where -- now it says here,</p> <p>5 "Keeping animals alive and well...improves</p> <p>6 quality and productivity." Is that your</p> <p>7 understanding?</p> <p>8 MR. DAVIS: Objection.</p> <p>9 Misstates the document.</p> <p>10 THE WITNESS: Yes. That is my</p> <p>11 understanding and my opinion.</p> <p>12 BY MR. PATTON:</p> <p>13 Q. And explain -- I don't want to</p> <p>14 put words in your mouth, but I want to</p> <p>15 understand that if animals are more humanely</p> <p>16 treated, they're more productive?</p> <p>17 MR. BARNES: Objection.</p> <p>18 Leading.</p> <p>19 THE WITNESS: The general</p> <p>20 consensus of the experts and of the</p> <p>21 industry is that if animals are</p> <p>22 humanely handled, you can have more</p> <p>23 efficient production, because you will</p> <p>24 have fewer animals die, fewer animals</p> <p>25 diseased and animals that are</p>
<p style="text-align: right;">Page 103</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 that question as the FMI witness or</p> <p>3 her own opinion?</p> <p>4 MR. PATTON: Let's start with I</p> <p>5 will -- let me -- I'll ask it in her</p> <p>6 opinion.</p> <p>7 BY MR. PATTON:</p> <p>8 Q. Do you have a view as to</p> <p>9 whether or not animal welfare, when properly</p> <p>10 administered, improves productivity and</p> <p>11 quality of food?</p> <p>12 A. It certainly can.</p> <p>13 Q. Do you have a view as to</p> <p>14 whether or not, if there are increased costs</p> <p>15 to animal welfare, whether those costs are</p> <p>16 offset by better productivity and better</p> <p>17 quality?</p> <p>18 MR. DAVIS: Objection.</p> <p>19 THE WITNESS: There can be</p> <p>20 increased costs. It depends on what</p> <p>21 state or what standards are already in</p> <p>22 place. A company may have to make a</p> <p>23 lot of changes, a company may have to</p> <p>24 make no changes. So it could have</p> <p>25 cost, but it doesn't necessarily have</p>	<p style="text-align: right;">Page 105</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 healthier and, therefore, can produce</p> <p>3 food more efficiently and safer foods.</p> <p>4 BY MR. PATTON:</p> <p>5 Q. And that's -- is that one of</p> <p>6 the hallmarks or the goals of a good animal</p> <p>7 welfare program?</p> <p>8 MR. GREEN: Objection.</p> <p>9 THE WITNESS: It was certainly</p> <p>10 one of our goals.</p> <p>11 BY MR. PATTON:</p> <p>12 Q. Keep animals healthy and also</p> <p>13 increase productivity. Is that a fair</p> <p>14 statement?</p> <p>15 A. Yes, it is.</p> <p>16 Q. You're not aware of an animal</p> <p>17 welfare program that was designed to reduce</p> <p>18 output and increase prices?</p> <p>19 A. No.</p> <p>20 Q. Now, if we turn through this</p> <p>21 document, you'll see that -- let me make sure</p> <p>22 there wasn't a double negative in that last</p> <p>23 answer. When I say --</p> <p>24 A. Okay.</p> <p>25 Q. Are you aware of any animal</p>

27 (Pages 102 - 105)

<p style="text-align: right;">Page 106</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 welfare guidelines whose intention was to</p> <p>3 reduce output and increase prices?</p> <p>4 A. I'm not aware of any such</p> <p>5 program.</p> <p>6 Q. Now, as we go through this --</p> <p>7 the rest of this document, you'll see that</p> <p>8 there's references to cattle, chicken layers,</p> <p>9 chicken broilers, swine, turkeys, kosher,</p> <p>10 veal and other products.</p> <p>11 A. Yes.</p> <p>12 Q. Generally were these all of the</p> <p>13 different industries that the FMI was looking</p> <p>14 at at the time?</p> <p>15 A. These were the industry sectors</p> <p>16 that we wanted to initially focus on,</p> <p>17 although some of them had a higher priority</p> <p>18 than others.</p> <p>19 Q. Now, the cattle -- under</p> <p>20 cattle, it appears that you had reviewed</p> <p>21 guidelines?</p> <p>22 A. Yes.</p> <p>23 Q. And at one bullet there it</p> <p>24 says, "Guidelines are only good if they are</p> <p>25 accompanied by an audit..." Is that -- who</p>	<p style="text-align: right;">Page 108</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Maybe if we turn to the second</p> <p>3 page, that may help you, or the next page, I</p> <p>4 should say, sort of give you a little bit</p> <p>5 more facts as to what those are referring to.</p> <p>6 Do you see where it says, "Recommendation is</p> <p>7 for minimum 72 square inches floor space?"</p> <p>8 A. Yes.</p> <p>9 Q. Was that McDonald's standard?</p> <p>10 MR. DAVIS: Objection.</p> <p>11 THE WITNESS: In the chart that</p> <p>12 we had earlier put together, that is</p> <p>13 what McDonald's identified was going</p> <p>14 to be their recommendation.</p> <p>15 BY MR. PATTON:</p> <p>16 Q. And then it says, "UEP said it</p> <p>17 would meet this standard (67-72...) in 10</p> <p>18 years..."</p> <p>19 A. Yes.</p> <p>20 Q. What does that indicate to you?</p> <p>21 A. In the UEP guidance, they</p> <p>22 indicated that it would have to be a</p> <p>23 phased-in program to reach that standard, and</p> <p>24 that they could get to between 67 and</p> <p>25 72 square inches per bird over a ten-year</p>
<p style="text-align: right;">Page 107</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 made that suggestion?</p> <p>3 A. Can you show me which bullet</p> <p>4 you're referring to?</p> <p>5 Q. I'm sorry. The third bullet</p> <p>6 down under "Summary of cattle issues."</p> <p>7 A. Given that this is in the</p> <p>8 cattle section, I believe that that was a</p> <p>9 statement particularly made by Temple</p> <p>10 Grandin.</p> <p>11 Q. Now, if we turn to chickens egg</p> <p>12 layers, there's a reference to three gaps.</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Those are the gaps that the</p> <p>16 experts were asked to identify in the</p> <p>17 guidelines?</p> <p>18 A. These were the gaps that the</p> <p>19 experts told us that they felt these were --</p> <p>20 these three in particular were areas that we</p> <p>21 would need to look at.</p> <p>22 Q. And forced molting -- it says,</p> <p>23 "...space forced molting; and disposal."</p> <p>24 Do you see that?</p> <p>25 A. Yes, I do.</p>	<p style="text-align: right;">Page 109</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 period of time.</p> <p>3 Q. And was McDonald's recommending</p> <p>4 it by 2002?</p> <p>5 MR. DAVIS: Objection.</p> <p>6 BY MR. PATTON:</p> <p>7 Q. Do you know?</p> <p>8 A. That is what they told us when</p> <p>9 we were looking at their standard, yes.</p> <p>10 Q. Then it says, "...not</p> <p>11 acceptable to expert panel."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. What does that mean?</p> <p>15 A. The experts told us two things,</p> <p>16 one is that they felt ten years was a long</p> <p>17 time to implement that kind of a phased-in</p> <p>18 time, and they were also concerned that the</p> <p>19 way it was worded, theoretically nothing</p> <p>20 could be done for nine years and then on the</p> <p>21 tenth year, the change would have to be made.</p> <p>22 So they felt the way it was written was not</p> <p>23 going to be acceptable to them as far as</p> <p>24 their expert advice to us.</p> <p>25 Q. Early on I had asked you about</p>

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<p style="text-align: right;">Page 110</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 feasibility being a limitation on best</p> <p>3 practice. Do you recall that?</p> <p>4 A. Yes.</p> <p>5 Q. If industry in the end draws</p> <p>6 the line and says it's just not feasible, we</p> <p>7 just can't do it before that time period.</p> <p>8 Did the FMI have to accept that as one of the</p> <p>9 limitations on best practices?</p> <p>10 A. I think we can't force any</p> <p>11 industry to make a change, but we would</p> <p>12 certainly note that we had made a</p> <p>13 recommendation and the industry did not agree</p> <p>14 with the recommendation.</p> <p>15 Q. With respect to forced molting,</p> <p>16 was the UEP pursuing forced molting in its</p> <p>17 guidelines?</p> <p>18 MR. DAVIS: Objection.</p> <p>19 THE WITNESS: My recollection is</p> <p>20 that they had taken a position that</p> <p>21 water would not be withheld, but they</p> <p>22 were not opposed to feed withdrawal.</p> <p>23 BY MR. PATTON:</p> <p>24 Q. And was that -- I mean, was</p> <p>25 that another limitation or a feasibility</p>	<p style="text-align: right;">Page 112</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 MR. DAVIS: Objection.</p> <p>3 THE WITNESS: Yes, it is, but</p> <p>4 UEP did say that they would continue</p> <p>5 to look at it knowing our concerns.</p> <p>6 BY MR. PATTON:</p> <p>7 Q. And was that -- did that -- was</p> <p>8 FMI in a position of power to insist that UEP</p> <p>9 stop forced molting?</p> <p>10 MR. DAVIS: Objection.</p> <p>11 THE WITNESS: No, we were not in</p> <p>12 that position.</p> <p>13 MR. PATTON: Why don't we take a</p> <p>14 break, we've been going an hour and a</p> <p>15 half --</p> <p>16 THE WITNESS: Good.</p> <p>17 MR. PATTON: Or hour and 20</p> <p>18 minutes.</p> <p>19 VIDEOGRAPHER: Going off the</p> <p>20 record. The time of 10:49.</p> <p>21 - - -</p> <p>22 (A recess was taken.)</p> <p>23 - - -</p> <p>24 VIDEOGRAPHER: We are back on</p> <p>25 the video record. This is the start</p>
<p style="text-align: right;">Page 111</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 issue that under best practices FMI had to</p> <p>3 deal with?</p> <p>4 MR. DAVIS: Objection.</p> <p>5 THE WITNESS: That was one of</p> <p>6 the areas where we asked the industry</p> <p>7 and our experts could we find more</p> <p>8 science and more alternatives to</p> <p>9 forced molting, were there other ways</p> <p>10 to achieve what they were trying to</p> <p>11 achieve with that practice.</p> <p>12 BY MR. PATTON:</p> <p>13 Q. Was forced molting in later</p> <p>14 years actually something that the FMI noted</p> <p>15 was an issue for the FMI?</p> <p>16 MR. DAVIS: Objection.</p> <p>17 BY MR. PATTON:</p> <p>18 Q. I can show you documents to</p> <p>19 that respect.</p> <p>20 A. Yes, that became one of the</p> <p>21 outstanding issues.</p> <p>22 Q. So UEP continued to at least</p> <p>23 approve of or not disapprove of forced</p> <p>24 molting whereas the FMI noted that as an</p> <p>25 issue. Is that a fair statement?</p>	<p style="text-align: right;">Page 113</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 of disc number two. The time is</p> <p>3 11:07.</p> <p>4 - - -</p> <p>5 (Exhibit H-7, Animal Husbandry</p> <p>6 Guidelines for U.S. Egg Laying Flocks</p> <p>7 2000 Edition, Bates KRGE00020660 -</p> <p>8 KRGE00020670, was marked for</p> <p>9 identification.)</p> <p>10 - - -</p> <p>11 BY MR. PATTON:</p> <p>12 Q. Ms. Hollingsworth, I -- Dr.</p> <p>13 Hollingsworth, I placed in front of you what</p> <p>14 are the UEP Animal Welfare Guidelines, the</p> <p>15 2000 Edition.</p> <p>16 A. Yes.</p> <p>17 Q. Are these the guidelines that</p> <p>18 the FMI and its advisory committee reviewed</p> <p>19 in the 2001 period as we've seen in prior</p> <p>20 documents?</p> <p>21 MR. DAVIS: Objection.</p> <p>22 THE WITNESS: Yes.</p> <p>23 BY MR. PATTON:</p> <p>24 Q. Had you reviewed these</p> <p>25 guidelines?</p>

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<p style="text-align: right;">Page 114</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes, I did.</p> <p>3 Q. You reviewed these guidelines</p> <p>4 along with other guidelines from other</p> <p>5 industries like beef and cattle and turkey to</p> <p>6 the extent they existed?</p> <p>7 A. Yes.</p> <p>8 Q. You didn't focus unduly on</p> <p>9 these guidelines as opposed to guidelines</p> <p>10 that were produced by other producer</p> <p>11 communities?</p> <p>12 A. They were all done</p> <p>13 simultaneously.</p> <p>14 Q. Did the FMI write these</p> <p>15 guidelines?</p> <p>16 A. No, they did not.</p> <p>17 Q. Did the FMI ever request that</p> <p>18 the UEP develop these guidelines in 2000?</p> <p>19 A. We did not ask them to write</p> <p>20 guidelines. We asked to see the guidelines</p> <p>21 that they had.</p> <p>22 Q. So the UEP never drafted these</p> <p>23 guidelines or edited -- I'm sorry, the FMI</p> <p>24 never drafted these guidelines or edited</p> <p>25 them. Is that right?</p>	<p style="text-align: right;">Page 116</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Is that your understanding of</p> <p>3 what molting accomplishes?</p> <p>4 A. That is not a statement that I</p> <p>5 have scientific proof of. We did accept that</p> <p>6 this was information provided by UEP and</p> <p>7 there would be some basis for a statement,</p> <p>8 although I can't verify the 50 percent, but</p> <p>9 we understood the basis for their statement.</p> <p>10 Q. And was molting an established</p> <p>11 and an existing process that egg producers</p> <p>12 were using by at least 2000?</p> <p>13 A. I cannot confirm that every egg</p> <p>14 producer used molting, but, yes, it was a</p> <p>15 common practice.</p> <p>16 Q. And if you look under the</p> <p>17 "MOLTING RECOMMENDATIONS," do you see the</p> <p>18 paragraph that starts "However...", it says,</p> <p>19 "However, until such time that these</p> <p>20 alternatives are available, the shortest</p> <p>21 period of feed withdrawal possible should be</p> <p>22 used..."</p> <p>23 A. Yes.</p> <p>24 Q. So was the -- this consistent</p> <p>25 with the scientific committee's review that</p>
<p style="text-align: right;">Page 115</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 MR. DAVIS: Objection.</p> <p>3 THE WITNESS: We did not edit</p> <p>4 them. We did ask our experts to</p> <p>5 comment on them.</p> <p>6 BY MR. PATTON:</p> <p>7 Q. But they were preexisting by</p> <p>8 the time the FMI became involved in the</p> <p>9 process. Is that fair?</p> <p>10 MR. DAVIS: Objection.</p> <p>11 THE WITNESS: Yes, that's</p> <p>12 correct.</p> <p>13 BY MR. PATTON:</p> <p>14 Q. If you turn to the page that's</p> <p>15 delineated KRGE 20665, and I'm sorry, that's</p> <p>16 the only page numbering I have on this thing.</p> <p>17 It's entitled "Molting." 665, do you see</p> <p>18 that?</p> <p>19 A. Yes.</p> <p>20 Q. Under the molting</p> <p>21 recommendations, under -- well, the third</p> <p>22 full paragraph at the top it says, "Molting</p> <p>23 results in the use of approximately 50% fewer</p> <p>24 hens than would be needed to supply the</p> <p>25 consuming market..."</p>	<p style="text-align: right;">Page 117</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 UEP was still acknowledging food deprivation</p> <p>3 and forced molting as part of their</p> <p>4 guidelines?</p> <p>5 MR. DAVIS: Objection.</p> <p>6 THE WITNESS: It was still</p> <p>7 included in their guidelines.</p> <p>8 BY MR. PATTON:</p> <p>9 Q. Whereas McDonald's had already</p> <p>10 said no forced molting. Right?</p> <p>11 MR. DAVIS: Objection.</p> <p>12 THE WITNESS: McDonald's had</p> <p>13 told us that that was -- that was</p> <p>14 their position.</p> <p>15 BY MR. PATTON:</p> <p>16 Q. If you turn to the second to</p> <p>17 the last page it says, "CAGE STOCKING DENSITY</p> <p>18 'PHASE-IN' PLAN."</p> <p>19 A. Yes.</p> <p>20 Q. This was the UEP's phase-in</p> <p>21 plan. Right?</p> <p>22 A. Yes.</p> <p>23 MR. MCKENNEY: Objection.</p> <p>24 Leading.</p> <p>25 BY MR. PATTON:</p>



<p style="text-align: right;">Page 118</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Was this ever FMI's plan?</p> <p>3 A. This was the phase-in plan that</p> <p>4 UEP presented to us in their 2000 guideline.</p> <p>5 Q. Is this where we see that they</p> <p>6 would aspire or at least require that</p> <p>7 producers reach 67 square inches by 2012?</p> <p>8 MR. MCKENNEY: Objection. Form.</p> <p>9 THE WITNESS: Yes, this was the</p> <p>10 plan that showed a ten-year program</p> <p>11 for increasing cage space density.</p> <p>12 BY MR. PATTON:</p> <p>13 Q. Now, McDonald's was at</p> <p>14 72 inches. That's -- simple math, that is</p> <p>15 greater than 67. Right?</p> <p>16 MR. DAVIS: Objection.</p> <p>17 THE WITNESS: That was what</p> <p>18 McDonald's put into their</p> <p>19 recommendations.</p> <p>20 BY MR. PATTON:</p> <p>21 Q. Was it ever FMI's position to</p> <p>22 insist that the UEP raise their number to 72?</p> <p>23 A. Our position, based on guidance</p> <p>24 from the experts, was that we would like to</p> <p>25 see a shorter time frame and get in closer to</p>	<p style="text-align: right;">Page 120</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Do you know who Don Bell is?</p> <p>3 A. I do not.</p> <p>4 Q. Were you aware that Donald Bell</p> <p>5 was an economist?</p> <p>6 MR. DAVIS: Objection.</p> <p>7 THE WITNESS: I do not know</p> <p>8 Donald Bell.</p> <p>9 BY MR. PATTON:</p> <p>10 Q. What information do you have</p> <p>11 that Donald Bell had been actually providing</p> <p>12 economic information to UEP leadership</p> <p>13 regarding the economics of cage space</p> <p>14 limitations?</p> <p>15 MR. DAVIS: Objection.</p> <p>16 THE WITNESS: I was not aware of</p> <p>17 that.</p> <p>18 BY MR. PATTON:</p> <p>19 Q. Do you have any knowledge as to</p> <p>20 whether Mr. Bell had informed the UEP that</p> <p>21 the best way to raise prices was to institute</p> <p>22 a cage space limitation?</p> <p>23 MR. DAVIS: Objection.</p> <p>24 THE WITNESS: I would have no</p> <p>25 way of knowing that, no knowledge of</p>
<p style="text-align: right;">Page 119</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 the recommended minimum of 72.</p> <p>3 Q. Okay. But you -- were you --</p> <p>4 was FMI in a position to require or insist</p> <p>5 that the UEP change their phase-in period or</p> <p>6 increase the cage space?</p> <p>7 A. No --</p> <p>8 MR. DAVIS: Objection.</p> <p>9 THE WITNESS: -- we couldn't do</p> <p>10 that.</p> <p>11 BY MR. PATTON:</p> <p>12 Q. In fact, were you ever -- do</p> <p>13 you know if the UEP ever got to 72 inches,</p> <p>14 because what I've seen is they haven't?</p> <p>15 MR. DAVIS: Objection.</p> <p>16 MR. MCKENNEY: Objection to</p> <p>17 form.</p> <p>18 THE WITNESS: To my knowledge,</p> <p>19 they never said 72 across the board</p> <p>20 for all poultry.</p> <p>21 BY MR. PATTON:</p> <p>22 Q. Now, if you turn to the last</p> <p>23 page, do you see the "SCIENTIFIC ADVISORY</p> <p>24 COMMITTEE MEMBERS" for the UEP?</p> <p>25 A. Yes, I do.</p>	<p style="text-align: right;">Page 121</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 that.</p> <p>3 BY MR. PATTON:</p> <p>4 Q. But you see, at least, that he</p> <p>5 was part of their Scientific Advisory</p> <p>6 Committee. Right?</p> <p>7 A. Yes, his name is here.</p> <p>8 Q. Now, let's talk about your</p> <p>9 interactions with the UEP in the 2001 time</p> <p>10 period. Who -- during this time period</p> <p>11 starting in August of 2001 where I think we</p> <p>12 had left off or July-August time period</p> <p>13 through January of 2002, who at the UEP was</p> <p>14 the FMI or yourself interacting with, if you</p> <p>15 can recall?</p> <p>16 A. The primary point of contact</p> <p>17 was Al Pope, who was head of the</p> <p>18 organization, I don't remember his exact</p> <p>19 title, and also Gene Gregory.</p> <p>20 Q. Do you understand that they</p> <p>21 were part of the UEP leadership?</p> <p>22 A. Yes.</p> <p>23 Q. Did you know who the major</p> <p>24 members of the UEP were?</p> <p>25 A. We were aware of some of their</p>



<p style="text-align: right;">Page 122</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 members, either because their names came up</p> <p>3 in discussions or some of them actually at</p> <p>4 one point in time came in and visited along</p> <p>5 with UEP, but we did not have a list of all</p> <p>6 UEP members.</p> <p>7 Q. Do you know that the primary</p> <p>8 members were firms or egg marketing firms</p> <p>9 such as Cal-Maine, Sparboe, Midwest</p> <p>10 Poultry --</p> <p>11 MR. DAVIS: Objection.</p> <p>12 MR. BARNES: Objection.</p> <p>13 Leading.</p> <p>14 MR. MCKENNEY: Object to the</p> <p>15 form.</p> <p>16 BY MR. PATTON:</p> <p>17 Q. -- et cetera?</p> <p>18 MR. BARNES: Leading.</p> <p>19 THE WITNESS: It was our</p> <p>20 understanding that there were some egg</p> <p>21 producers we knew were members of UEP.</p> <p>22 BY MR. PATTON:</p> <p>23 Q. At times did -- I think you</p> <p>24 just said that individual members of the UEP,</p> <p>25 some of these egg producers themselves came</p>	<p style="text-align: right;">Page 124</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 their guidelines?</p> <p>3 A. Yes.</p> <p>4 MR. DAVIS: Objection.</p> <p>5 THE WITNESS: We asked UEP on</p> <p>6 numerous occasions to come in, to meet</p> <p>7 with us. We would share with them</p> <p>8 where our experts were. We actually</p> <p>9 invited them to come in at one time</p> <p>10 when our experts were there so they</p> <p>11 could interact one-on-one, and we</p> <p>12 encouraged not only UEP but all of the</p> <p>13 animal commodity groups if they would</p> <p>14 like to bring in representative</p> <p>15 members of their organization to also</p> <p>16 ask us questions and to share with us</p> <p>17 and our experts their thoughts about</p> <p>18 what we were suggesting were possible</p> <p>19 changes or needed research on the</p> <p>20 existing guidelines.</p> <p>21 BY MR. PATTON:</p> <p>22 Q. Do you feel that the UEP had a</p> <p>23 heightened sense of eagerness and involvement</p> <p>24 from your perspective in having the FMI</p> <p>25 acknowledge their guidelines?</p>
<p style="text-align: right;">Page 123</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 and met with FMI?</p> <p>3 A. Yes, they did. UEP brought</p> <p>4 them in to meet with us.</p> <p>5 Q. When you had -- the FMI was</p> <p>6 going through this process of reviewing the</p> <p>7 guidelines, was the UEP interested in the</p> <p>8 results of FMI's assessment?</p> <p>9 MR. DAVIS: Objection.</p> <p>10 THE WITNESS: The UEP was very</p> <p>11 interested and very involved in that.</p> <p>12 BY MR. PATTON:</p> <p>13 Q. By "very interested," what do</p> <p>14 you mean?</p> <p>15 A. The UEP indicated to us that</p> <p>16 they were very, very eager to have FMI</p> <p>17 recognize their set of guidelines and that</p> <p>18 they would become part of the guidelines that</p> <p>19 we would make our members aware of as having</p> <p>20 met the requirements or the best practices</p> <p>21 from our experts.</p> <p>22 Q. When you say also involved,</p> <p>23 describe for me the level of involvement you</p> <p>24 perceived from the UEP in their efforts to</p> <p>25 have I think you said the FMI acknowledge</p>	<p style="text-align: right;">Page 125</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 MR. DAVIS: Objection.</p> <p>3 THE WITNESS: I felt they were</p> <p>4 very eager and supportive of that</p> <p>5 approach.</p> <p>6 BY MR. PATTON:</p> <p>7 Q. Now, I think you know that</p> <p>8 eventually the UEP issued a set of guidelines</p> <p>9 in 2002. Right?</p> <p>10 A. I believe it was 2002. There</p> <p>11 were, you know, a set of editions that came</p> <p>12 out over time.</p> <p>13 Q. Right. Did the FMI ever</p> <p>14 require the UEP to issue a second set of</p> <p>15 guidelines?</p> <p>16 MR. DAVIS: Objection.</p> <p>17 Mischaracterizes.</p> <p>18 THE WITNESS: No, we never</p> <p>19 required them to.</p> <p>20 BY MR. PATTON:</p> <p>21 Q. Did the FMI ever write the</p> <p>22 UEP's 2000 guidelines for them?</p> <p>23 A. No, they did not.</p> <p>24 Q. Did the FMI ever ask and</p> <p>25 request that the UEP write or prepare 2002</p>

<p style="text-align: right;">Page 126</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 guidelines?</p> <p>3 A. No, we did not.</p> <p>4 Q. Was it ever FMI's role to</p> <p>5 require the UEP to develop a revised</p> <p>6 guidelines?</p> <p>7 MR. DAVIS: Objection.</p> <p>8 Mischaracterizes.</p> <p>9 THE WITNESS: No, it wasn't.</p> <p>10 BY MR. PATTON:</p> <p>11 Q. Did any member of the FMI come</p> <p>12 to the FMI and say you got to go get the UEP</p> <p>13 to write these guidelines?</p> <p>14 A. No.</p> <p>15 Q. Would that have been</p> <p>16 inappropriate from FMI's perspective as in</p> <p>17 its role as a retail trade association?</p> <p>18 A. No, that would not have been</p> <p>19 our role or responsibility.</p> <p>20 Q. Now, during this -- I'm going</p> <p>21 to focus on the time period January through</p> <p>22 2002 when you and the FMI were interacting</p> <p>23 with UEP members. Let me mark Exhibit 8.</p> <p>24 MR. BARNES: Did you mark 7,</p> <p>25 Doug? I don't recall that being</p>	<p style="text-align: right;">Page 128</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 that says, "I talked with Al Pope and Gene</p> <p>3 Gregory of the UEP?"</p> <p>4 Do you see that?</p> <p>5 A. Yes, I do.</p> <p>6 Q. Are those the individuals that</p> <p>7 you identified were the primary</p> <p>8 representatives from the UEP that you were</p> <p>9 interacting with?</p> <p>10 A. Yes, they were.</p> <p>11 Q. And she says, I've explained</p> <p>12 where we were and shared with them minus</p> <p>13 assignment timelines and other stuff or other</p> <p>14 species issues because the UEP has a</p> <p>15 June 14th board meeting coming up.</p> <p>16 Does this indicate that Mr.</p> <p>17 Pope and Mr. Gregory had informed Ms. Brown</p> <p>18 that the UEP had a January 14th board</p> <p>19 meeting?</p> <p>20 A. Yes, they did.</p> <p>21 Q. Then it says, "UEP has a timing</p> <p>22 problem and would like to speed up their</p> <p>23 process." It says, "Egg producers</p> <p>24 have...significant decisions about their</p> <p>25 flocks by April." And that "UEP believes</p>
<p style="text-align: right;">Page 127</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 marked.</p> <p>3 MR. PATTON: I did mark 7.</p> <p>4 MR. BARNES: You did?</p> <p>5 MR. PATTON: And it is the 2000</p> <p>6 edition guidelines.</p> <p>7 MR. BARNES: Thank you.</p> <p>8 - - -</p> <p>9 (Exhibit H-8, E-mail chain,</p> <p>10 Bates FMI-000536 &amp; FMI-000537, was</p> <p>11 marked for identification.)</p> <p>12 - - -</p> <p>13 BY MR. PATTON:</p> <p>14 Q. Dr. Hollingsworth, I've placed</p> <p>15 Exhibit 8 in front of you. Take a moment to</p> <p>16 look at it while I hand it out to counsel.</p> <p>17 My focus is not on the first</p> <p>18 e-mail, but the second e-mail that begins at</p> <p>19 the bottom of the page and carries over.</p> <p>20 Exhibit 8, in the e-mail I'm</p> <p>21 focusing on is an e-mail from Karen Brown,</p> <p>22 several individuals and cc'ing you, entitled</p> <p>23 "Follow-up to Denver Meeting," and it's Bates</p> <p>24 number FMI-000536. And I'd like to focus on</p> <p>25 the center paragraph in Ms. Brown's e-mail</p>	<p style="text-align: right;">Page 129</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 that FMI-NCCR approval of their program is</p> <p>3 essential to having total industry</p> <p>4 cooperation implementing the guidelines.</p> <p>5 They would like to have our review</p> <p>6 accomplished ASAP."</p> <p>7 Now, based on that, is this</p> <p>8 consistent with your understanding that UEP</p> <p>9 believed it was essential for the FMI and NCR</p> <p>10 to acknowledge their program?</p> <p>11 MR. BARNES: Objection to form.</p> <p>12 MR. DAVIS: Objection.</p> <p>13 THE WITNESS: UEP did let us</p> <p>14 know that they felt FMI and the</p> <p>15 National Chain Council of Restaurants'</p> <p>16 acceptance of their best practices and</p> <p>17 guidelines was important to them and</p> <p>18 their members.</p> <p>19 BY MR. PATTON:</p> <p>20 Q. And do you recall them at a</p> <p>21 minimum explaining to you that it was</p> <p>22 essential --</p> <p>23 MR. DAVIS: Objection.</p> <p>24 BY MR. PATTON:</p> <p>25 Q. -- to their members as set</p>

<p style="text-align: right;">Page 130</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 forth in Ms. Brown's e-mail?</p> <p>3 MR. DAVIS: Objection.</p> <p>4 THE WITNESS: I don't remember</p> <p>5 the specific wording that it was</p> <p>6 essential to have total industry</p> <p>7 cooperation, but they did on several</p> <p>8 occasions reiterate that it was very</p> <p>9 important to them to have this kind of</p> <p>10 acceptance of their program.</p> <p>11 BY MR. PATTON:</p> <p>12 Q. Did you -- was your impression</p> <p>13 that UEP was working or doing -- taking steps</p> <p>14 to try to get the FMI to accelerate their</p> <p>15 review?</p> <p>16 A. Yes, they wanted us to get the</p> <p>17 review and get the acceptance done as quickly</p> <p>18 as possible.</p> <p>19 Q. And did you -- did the FMI</p> <p>20 feel -- interpret that as slightly, if not</p> <p>21 more pressure being put on them by UEP?</p> <p>22 MR. DAVIS: Objection.</p> <p>23 THE WITNESS: I don't know that</p> <p>24 we really felt pressured. We had a</p> <p>25 process. We had a limited amount of</p>	<p style="text-align: right;">Page 132</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 became their certification program later.</p> <p>3 Are you aware that eventually the UEP came up</p> <p>4 with a certification program that was</p> <p>5 separate from their guidelines?</p> <p>6 MR. DAVIS: Objection.</p> <p>7 THE WITNESS: Yes, I am.</p> <p>8 BY MR. PATTON:</p> <p>9 Q. And we'll talk about the</p> <p>10 certification program later.</p> <p>11 In your capacity as an FMI</p> <p>12 corporate designee for this deposition, I</p> <p>13 know you haven't seen this document, but I'd</p> <p>14 like you to confirm that this is a UEP letter</p> <p>15 to Ms. Brown dated January 4, 2002, sent by</p> <p>16 both Al Pope and Gene Gregory and produced by</p> <p>17 FMI bearing Bates number FMI-0000836?</p> <p>18 MR. DAVIS: Objection.</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MR. PATTON:</p> <p>21 Q. The letter is addressed to Ms.</p> <p>22 Brown. Do you see the big block at the top</p> <p>23 of the letter?</p> <p>24 A. Yes, I do.</p> <p>25 Q. Could you read that into the</p>
<p style="text-align: right;">Page 131</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 time we could ask of the experts to</p> <p>3 dedicate to this project. But we did</p> <p>4 recognize that it was important to</p> <p>5 them that we work on the UEP</p> <p>6 guidelines and get them our</p> <p>7 endorsement or acceptance of as</p> <p>8 quickly as we could.</p> <p>9 BY MR. PATTON:</p> <p>10 Q. And the UEP wanted that.</p> <p>11 Right?</p> <p>12 A. Yes, they did.</p> <p>13 Q. Let me mark Exhibit 9 to your</p> <p>14 deposition.</p> <p>15 - - -</p> <p>16 (Exhibit H-9, 1/4/02 Letter,</p> <p>17 Bates FMI-000836 - FMI-000838, was</p> <p>18 marked for identification.)</p> <p>19 - - -</p> <p>20 BY MR. PATTON:</p> <p>21 Q. Now, as you were looking at</p> <p>22 this exhibit, I just want to put this in a</p> <p>23 context for you. This is before the UEP had</p> <p>24 established their 2002 guidelines. I am not</p> <p>25 going to ask -- I am not asking about what</p>	<p style="text-align: right;">Page 133</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 record, please?</p> <p>3 A. "It is critically important</p> <p>4 that FMI endorse UEP's animal welfare</p> <p>5 guidelines in order to meet the proposed</p> <p>6 schedule of implementation. Time is of</p> <p>7 essence."</p> <p>8 Q. Is this consistent with your</p> <p>9 view that the UEP was reminding FMI how</p> <p>10 critical it was that the FMI acknowledge the</p> <p>11 UEP's guidelines?</p> <p>12 MR. DAVIS: Objection.</p> <p>13 THE WITNESS: Yes, it is</p> <p>14 consistent with their wish that we do</p> <p>15 that.</p> <p>16 BY MR. PATTON:</p> <p>17 Q. Was it -- did you strike it --</p> <p>18 or did it strike you odd that the UEP was</p> <p>19 making these requests and telling you it was</p> <p>20 critical?</p> <p>21 MR. DAVIS: Objection.</p> <p>22 THE WITNESS: It was different</p> <p>23 from the other commodity groups. They</p> <p>24 all seemed to want that kind of</p> <p>25 endorsement or acceptance, but they</p>

<p style="text-align: right;">Page 134</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 were moving along with the process and</p> <p>3 the timeline we laid out. But UEP</p> <p>4 wanted an accelerated approach to</p> <p>5 that, and it was important to them</p> <p>6 that we move with their program</p> <p>7 quickly.</p> <p>8 BY MR. PATTON:</p> <p>9 Q. In your interactions with Mr.</p> <p>10 Pope, did you ever ask him why it was so</p> <p>11 important to the UEP or why it was critical</p> <p>12 to the UEP?</p> <p>13 MR. DAVIS: Objection.</p> <p>14 THE WITNESS: I believe there</p> <p>15 were discussions as to -- and not so</p> <p>16 much us asking Mr. Pope and Mr.</p> <p>17 Gregory why, but them sharing with us</p> <p>18 that it was very important for them.</p> <p>19 BY MR. PATTON:</p> <p>20 Q. Why -- what is your</p> <p>21 understanding of why Mr. Pope and Mr. Gregory</p> <p>22 were saying time is of the essence?</p> <p>23 MR. DAVIS: Objection.</p> <p>24 THE WITNESS: Initially one of</p> <p>25 the things that they had told us was</p>	<p style="text-align: right;">Page 136</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 share them. So at that point we were aware</p> <p>3 they had them, not necessarily the dates and</p> <p>4 the updates.</p> <p>5 Q. Did you have any information</p> <p>6 that had been provided to you about how their</p> <p>7 original guidelines, particularly with</p> <p>8 respect to the cage space limitations, was</p> <p>9 developed?</p> <p>10 MR. DAVIS: Objection.</p> <p>11 THE WITNESS: I don't recall us</p> <p>12 specifically asking them how they</p> <p>13 developed them.</p> <p>14 BY MR. PATTON:</p> <p>15 Q. Were you aware that the UEP</p> <p>16 Marketing Committee actually developed the</p> <p>17 phase-in periods?</p> <p>18 MR. DAVIS: Objection.</p> <p>19 MS. ANDERSON: Objection.</p> <p>20 THE WITNESS: I did not -- I</p> <p>21 would not know that.</p> <p>22 BY MR. PATTON:</p> <p>23 Q. Were you aware that this was --</p> <p>24 that at the time these guidelines, these</p> <p>25 Animal Welfare Guidelines were generated by</p>
<p style="text-align: right;">Page 135</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 that they did have, I believe it was</p> <p>3 either a board or a committee meeting</p> <p>4 where they wanted to be able to</p> <p>5 announce that they had this</p> <p>6 endorsement, and they also had told us</p> <p>7 that it was their goal to get their</p> <p>8 members all on board and consistent</p> <p>9 with a set of guidelines.</p> <p>10 BY MR. PATTON:</p> <p>11 Q. Now, if you turn to the second</p> <p>12 paragraph it says, "UEP began, as you are</p> <p>13 aware, to develop its first set of guidelines</p> <p>14 in 1983. This was followed by an update in</p> <p>15 early 1990's." And then it says, "In 1999 we</p> <p>16 undertook an aggressive in depth science</p> <p>17 based review and revision of our guidelines."</p> <p>18 Did you know that?</p> <p>19 A. We were aware of it at the time</p> <p>20 when they told us. We didn't necessarily</p> <p>21 look back as to what years and what times</p> <p>22 they did their Animal Welfare Program. When</p> <p>23 we started our project, the first thing we</p> <p>24 asked all of the commodity groups is, do you</p> <p>25 already have existing guidelines and will you</p>	<p style="text-align: right;">Page 137</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 the UEP, that they were internally</p> <p>3 recognizing their guidelines as a means to</p> <p>4 restrict output and increase prices?</p> <p>5 MR. DAVIS: Objection.</p> <p>6 MS. ANDERSON: Objection.</p> <p>7 THE WITNESS: I would have no</p> <p>8 way of knowing that at all.</p> <p>9 BY MR. PATTON:</p> <p>10 Q. Would that be a consistent goal</p> <p>11 with respect to animal welfare from your</p> <p>12 perspective?</p> <p>13 MR. DAVIS: Objection.</p> <p>14 THE WITNESS: From an animal</p> <p>15 welfare perspective, no.</p> <p>16 BY MR. PATTON:</p> <p>17 Q. Now, let me mark Exhibit 10 to</p> <p>18 your deposition.</p> <p>19 - - -</p> <p>20 (Exhibit H-10, E-mail chain,</p> <p>21 Bates FMI-000595 - FMI-000601, was</p> <p>22 marked for identification.)</p> <p>23 - - -</p> <p>24 BY MR. PATTON:</p> <p>25 Q. Take a moment to -- Exhibit 10</p>

<p style="text-align: right;">Page 138</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 is an e-mail exchange between Karen Brown and</p> <p>3 several members of the FMI Scientific</p> <p>4 Committee and includes a carbon copy to</p> <p>5 yourself. Unfortunately I don't know the</p> <p>6 date. Other than there appears to be a</p> <p>7 document and a couple of documents toward the</p> <p>8 end that bear the date February 15, 2002.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Now, it bears Bates number</p> <p>12 FMI-000595. It states that during this time</p> <p>13 period, that you -- Terrie, you and Ms. Brown</p> <p>14 met with the UEP at their request?</p> <p>15 A. Correct.</p> <p>16 Q. Were there times when the UEP</p> <p>17 would actually request to meet with the FMI?</p> <p>18 A. Yes. UEP did ask on several</p> <p>19 occasions to meet with us.</p> <p>20 Q. I think you recall that there</p> <p>21 had been a meeting where the UEP actually,</p> <p>22 along with member companies, came to meet</p> <p>23 with the FMI. Right?</p> <p>24 A. Yes. And our experts may or</p> <p>25 may not have been present at some of those</p>	<p style="text-align: right;">Page 140</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Was it the UEP that was asking</p> <p>3 FMI to approve the guidelines or was FMI</p> <p>4 asking UEP to work on their guidelines?</p> <p>5 MR. DAVIS: Objection.</p> <p>6 THE WITNESS: It was UEP asking</p> <p>7 us.</p> <p>8 BY MR. PATTON:</p> <p>9 Q. UEP was --</p> <p>10 A. Asking FMI.</p> <p>11 MS. ANDERSON: Doug, the phone</p> <p>12 has been disconnected. We can go off</p> <p>13 the record and fix the phone. They</p> <p>14 can't hear.</p> <p>15 MR. PATTON: Let's take a quick</p> <p>16 break.</p> <p>17 VIDEOGRAPHER: Going off the</p> <p>18 record. The time is 11:35.</p> <p>19 - - -</p> <p>20 (A recess was taken.)</p> <p>21 - - -</p> <p>22 VIDEOGRAPHER: Back on the video</p> <p>23 record. 11:36.</p> <p>24 BY MR. PATTON:</p> <p>25 Q. Do you have a recollection at</p>
<p style="text-align: right;">Page 139</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 meetings.</p> <p>3 Q. It says here the UEP has been</p> <p>4 concerned that they would not be able to get</p> <p>5 their producers to move forward on the UEP</p> <p>6 industry guidelines without some form of</p> <p>7 formal support by FMI and NCR. Let me read</p> <p>8 that again because I didn't do a good job.</p> <p>9 It says, UEP has been concerned</p> <p>10 that they would not be able to get their</p> <p>11 producers to move forward on the UEP industry</p> <p>12 guidelines without some form of formal</p> <p>13 support by FMI and NCR.</p> <p>14 Did I read that correctly?</p> <p>15 A. Yes. It's NCCR, but yes.</p> <p>16 Q. NCCR. Is it -- is this</p> <p>17 consistent with your understanding that the</p> <p>18 UEP was expressing concern that they couldn't</p> <p>19 get their producers on board and they wanted</p> <p>20 the FMI and the NCCR to formally support</p> <p>21 their guidelines?</p> <p>22 MR. DAVIS: Objection.</p> <p>23 THE WITNESS: That is what they</p> <p>24 told us.</p> <p>25 BY MR. PATTON:</p>	<p style="text-align: right;">Page 141</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 all during this meeting whether or not the</p> <p>3 UEP representatives were also asking FMI to</p> <p>4 prepare a letter acknowledging the UEP's</p> <p>5 efforts in putting together their guidelines?</p> <p>6 A. Yes, UEP did want us to make it</p> <p>7 very clear that we were working together and</p> <p>8 that we were recognizing their work. And</p> <p>9 they also requested that we take a stand and</p> <p>10 a position on supporting and advocating their</p> <p>11 guidelines.</p> <p>12 Q. They were asking FMI. Correct?</p> <p>13 A. Yes, correct.</p> <p>14 Q. FMI wasn't asking UEP to do</p> <p>15 that?</p> <p>16 A. No, we were not. They were</p> <p>17 asking us to do that.</p> <p>18 Q. It says here, "Also attached is</p> <p>19 a copy of a letter we sent to UEP for use</p> <p>20 with their producers that supports best</p> <p>21 management practices..." and then Ms. Brown</p> <p>22 writes, "This letter is not meant to be an</p> <p>23 endorsement of their guidelines -- and we</p> <p>24 have made this clear to UEP."</p> <p>25 Do you see that?</p>

<p style="text-align: right;">Page 142</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes, I do.</p> <p>3 Q. Is that an accurate statement?</p> <p>4 A. It is an accurate statement.</p> <p>5 We had a process for endorsement and we had</p> <p>6 not completed that process with UEP, so at</p> <p>7 that time we could not give them an</p> <p>8 endorsement, but we could give them this</p> <p>9 letter, which we did, explaining that we were</p> <p>10 working with them.</p> <p>11 Q. Did the UEP want the FMI to</p> <p>12 endorse their guidelines?</p> <p>13 A. Yes, they did.</p> <p>14 Q. And why do you think they were</p> <p>15 asking that?</p> <p>16 MR. DAVIS: Objection.</p> <p>17 THE WITNESS: The comment they</p> <p>18 had made to us, as indicated in this</p> <p>19 memo, was that they felt that was</p> <p>20 important for them to get all of their</p> <p>21 members to adhere to those guidelines.</p> <p>22 BY MR. PATTON:</p> <p>23 Q. And as a person knowledgeable in</p> <p>24 animal welfare, wouldn't it make sense that</p> <p>25 the more people that -- more entities that</p>	<p style="text-align: right;">Page 144</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 the increased prices of eggs and attributing</p> <p>3 them to compliance with their own UEP Animal</p> <p>4 Welfare Guidelines?</p> <p>5 MR. DAVIS: Objection.</p> <p>6 THE WITNESS: I didn't have any</p> <p>7 knowledge of that.</p> <p>8 BY MR. PATTON:</p> <p>9 Q. Let me mark -- well, let me ask</p> <p>10 you this: During this time period, was the</p> <p>11 UEP also expressing to the FMI, or reminding</p> <p>12 the FMI is probably a better way to say it,</p> <p>13 that there were activist groups and PETA was</p> <p>14 out there and there was a real threat of</p> <p>15 activist activity if FMI didn't acknowledge</p> <p>16 UEP's guidelines?</p> <p>17 MR. DAVIS: Objection.</p> <p>18 THE WITNESS: I don't remember</p> <p>19 that discussion.</p> <p>20 BY MR. PATTON:</p> <p>21 Q. Do you recall at all in</p> <p>22 discussions with members of the UEP and of</p> <p>23 the producers when you had that meeting</p> <p>24 reminding FMI that PETA and activist groups</p> <p>25 would come and protest in front of</p>
<p style="text-align: right;">Page 143</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 could observe the humane treatment of</p> <p>3 animals, the better?</p> <p>4 A. Yes, of course.</p> <p>5 Q. What knowledge do you have that</p> <p>6 the UEP also wanted all their members on</p> <p>7 board in order to raise prices of eggs?</p> <p>8 MR. DAVIS: Objection.</p> <p>9 THE WITNESS: They never gave us</p> <p>10 a reason why they wanted them. They</p> <p>11 just wanted all their members to use</p> <p>12 the guidelines.</p> <p>13 BY MR. PATTON:</p> <p>14 Q. Do you have any information as</p> <p>15 you sit here today regarding whether or not</p> <p>16 the UEP internally wanted all of its members</p> <p>17 to abide by these guidelines so that they</p> <p>18 could raise the prices of eggs?</p> <p>19 MR. DAVIS: Objection.</p> <p>20 THE WITNESS: They never said</p> <p>21 that. And I would not know that.</p> <p>22 BY MR. PATTON:</p> <p>23 Q. What knowledge do you have</p> <p>24 during this time period in 2002-2003, that</p> <p>25 the UEP internally was monitoring the prices,</p>	<p style="text-align: right;">Page 145</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 supermarkets if FMI didn't acknowledge UEP's</p> <p>3 guidelines?</p> <p>4 MR. DAVIS: Objection.</p> <p>5 THE WITNESS: I don't remember</p> <p>6 that specifically, no.</p> <p>7 BY MR. PATTON:</p> <p>8 Q. Let me show you what's going to</p> <p>9 be marked as Exhibit 11.</p> <p>10 - - -</p> <p>11 (Exhibit H-11, 2/4/02 Letter,</p> <p>12 Bates FMI-001213 - FMI-001261, was</p> <p>13 marked for identification.)</p> <p>14 - - -</p> <p>15 BY MR. PATTON:</p> <p>16 Q. By the way, do you recall when</p> <p>17 your meeting took place with -- this meeting</p> <p>18 with the UEP where they asked to meet with</p> <p>19 you?</p> <p>20 MR. DAVIS: Objection.</p> <p>21 THE WITNESS: The day that this</p> <p>22 meeting occurred? I do not. I know</p> <p>23 it was prior to May, but I don't know</p> <p>24 the exact day.</p> <p>25 BY MR. PATTON:</p>

<p style="text-align: right;">Page 146</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Let me hand you what's been</p> <p>3 marked as Exhibit 11 to your deposition.</p> <p>4 I've handed you what has been marked as a</p> <p>5 letter from the UEP dated February 4, 2002,</p> <p>6 and attached to it is a document entitled the</p> <p>7 "North American Animal Liberation Front Press</p> <p>8 Office."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Just kind of thumb through this</p> <p>12 document. There's some pretty radical stuff</p> <p>13 being presented in here by the Animal</p> <p>14 Liberation Front, would that be a fair</p> <p>15 statement?</p> <p>16 MR. DAVIS: Objection.</p> <p>17 THE WITNESS: I haven't read</p> <p>18 this, so I just -- I can't say for</p> <p>19 sure.</p> <p>20 BY MR. PATTON:</p> <p>21 Q. Well, let's take one second and</p> <p>22 turn to, for instance, FMI-0001227 of the</p> <p>23 document entitled "Animal Liberation."</p> <p>24 A. Yes, I see that.</p> <p>25 Q. And if you go and you turn the</p>	<p style="text-align: right;">Page 148</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 organization?</p> <p>3 MR. DAVIS: Objection.</p> <p>4 THE WITNESS: No.</p> <p>5 BY MR. PATTON:</p> <p>6 Q. Why would he say -- do you know</p> <p>7 why he would say fortunately these aren't</p> <p>8 supermarkets?</p> <p>9 MR. DAVIS: Objection.</p> <p>10 THE WITNESS: I believe that</p> <p>11 there was concern that supermarkets</p> <p>12 would be targeted like the food</p> <p>13 service restaurants had been, and it</p> <p>14 appears that is the point he is</p> <p>15 making.</p> <p>16 BY MR. PATTON:</p> <p>17 Q. Do you believe or do you have a</p> <p>18 view as to whether or not Mr. Pope was trying</p> <p>19 to use fear tactics at this point in time in</p> <p>20 addition to repeatedly indicating to the FMI</p> <p>21 that it was essential that they adopt or that</p> <p>22 they acknowledge the UEP guidelines?</p> <p>23 MR. DAVIS: Objection.</p> <p>24 MR. GREEN: You're asking her</p> <p>25 opinion as the 30(b)(6)?</p>
<p style="text-align: right;">Page 147</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 page, you can see that they're identifying</p> <p>3 animals rescued and released 3,000 mink down</p> <p>4 to one snail. Do you see that?</p> <p>5 A. I'm looking for that exact --</p> <p>6 Q. On the next page.</p> <p>7 A. Okay. Yes. I'm sorry, yes, I</p> <p>8 do see that.</p> <p>9 Q. Tell me generally what you know</p> <p>10 about the Animal Liberation Front.</p> <p>11 A. They are considered an</p> <p>12 extremist animal rights group. And they have</p> <p>13 taken some action that at times has been</p> <p>14 considered questionable, perhaps not legal.</p> <p>15 And they are considered extremists.</p> <p>16 Q. If you turn to the front page</p> <p>17 of this letter, it's from Mr. Al Pope and he</p> <p>18 says, "Hi Karen: Fortunately, most of these</p> <p>19 were locations other than Supermarkets."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Do you have any understanding</p> <p>23 as to why Mr. Pope would be sending to the</p> <p>24 FMI what is basically a report from a radical</p> <p>25 extreme animal -- animal welfare</p>	<p style="text-align: right;">Page 149</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. PATTON:</p> <p>3 Q. As a 30(b)(6) witness, do you</p> <p>4 have --</p> <p>5 A. No.</p> <p>6 Q. You have no view?</p> <p>7 A. It was kind of a two part</p> <p>8 question. Can you break it out into one</p> <p>9 piece?</p> <p>10 Q. We already know that -- or you</p> <p>11 already testified that FMI was receiving</p> <p>12 requests, and your impression was that it</p> <p>13 was -- UEP was very eager and involved in</p> <p>14 having the FMI acknowledge its guidelines.</p> <p>15 Is that right?</p> <p>16 MR. DAVIS: Objection.</p> <p>17 THE WITNESS: Yes, that is</p> <p>18 correct.</p> <p>19 BY MR. PATTON:</p> <p>20 Q. As a component to that effort</p> <p>21 from the UEP, do you believe that the UEP was</p> <p>22 also raising the specter of fear of protests</p> <p>23 of radical activist groups to encourage the</p> <p>24 FMI to acknowledge their guidelines?</p> <p>25 MR. DAVIS: Objection.</p>



<p style="text-align: right;">Page 150</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 THE WITNESS: No, I don't</p> <p>3 believe we felt that way. Certainly</p> <p>4 as an FMI representative and in these</p> <p>5 discussions, I don't feel we felt that</p> <p>6 way.</p> <p>7 BY MR. PATTON:</p> <p>8 Q. Have you any knowledge of any</p> <p>9 internal meetings conducted at UEP where</p> <p>10 they, in fact, recognized the importance of</p> <p>11 reminding the FMI that if their guidelines</p> <p>12 aren't acknowledged, the FMI will continue to</p> <p>13 see PETA attacks at their companies and their</p> <p>14 stores?</p> <p>15 MR. DAVIS: Objection.</p> <p>16 THE WITNESS: I don't remember.</p> <p>17 I would not know of any internal</p> <p>18 meeting.</p> <p>19 BY MR. PATTON:</p> <p>20 Q. So I mean, the FMI and some of</p> <p>21 its members may have had the intent of</p> <p>22 reminding the FMI that without acknowledging</p> <p>23 the UEP guidelines, FMI members may be</p> <p>24 subject to PETA attacks?</p> <p>25 MR. DAVIS: Objection.</p>	<p style="text-align: right;">Page 152</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 - - -</p> <p>3 (Exhibit H-12, 3/20/02 E-mail,</p> <p>4 Bates FMI-001078 &amp; FMI-001079, was</p> <p>5 marked for identification.)</p> <p>6 - - -</p> <p>7 BY MR. PATTON:</p> <p>8 Q. Exhibit 11. Did I say 11 or</p> <p>9 12? I am sorry. Let's start over.</p> <p>10 Exhibit 12 is an e-mail</p> <p>11 exchange dated March 20, 2002, between an</p> <p>12 individual from Kroger and Karen Brown. It's</p> <p>13 bearing Bates -- bears the Bates number</p> <p>14 FMI-001078 through 79. Do you know who Lynn</p> <p>15 Marmer is?</p> <p>16 A. Yes, I do.</p> <p>17 Q. In your capacity as a 30(b)(6)</p> <p>18 witness, because you're not on this e-mail,</p> <p>19 were you aware that Kroger was receiving</p> <p>20 pressure from the UEP to sign on to their</p> <p>21 standards?</p> <p>22 MR. DAVIS: Objection.</p> <p>23 THE WITNESS: Because of this,</p> <p>24 it is apparent that FMI was aware.</p> <p>25 BY MR. PATTON:</p>
<p style="text-align: right;">Page 151</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 THE WITNESS: Are you asking me</p> <p>3 if I was at a meeting where that was</p> <p>4 discussed or if FMI was? No.</p> <p>5 BY MR. PATTON:</p> <p>6 Q. Did anyone from UEP ever tell</p> <p>7 you that they actually had a meeting and one</p> <p>8 of their objectives was to remind the FMI of</p> <p>9 the potential for PETA attacks?</p> <p>10 MR. DAVIS: Objection.</p> <p>11 THE WITNESS: I don't. No, I</p> <p>12 don't.</p> <p>13 BY MR. PATTON:</p> <p>14 Q. What recollection do you have</p> <p>15 of UEP's members or suppliers putting direct</p> <p>16 pressure on members of the FMI to adopt their</p> <p>17 guidelines?</p> <p>18 MR. DAVIS: Objection.</p> <p>19 THE WITNESS: I'm not aware of</p> <p>20 that. I don't know of any pressure</p> <p>21 that was between UEP and individual</p> <p>22 companies.</p> <p>23 BY MR. PATTON:</p> <p>24 Q. Let me hand you what's been</p> <p>25 marked as Exhibit 11. I'm sorry, Exhibit 12.</p>	<p style="text-align: right;">Page 153</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. It says -- and Mr. Marmer</p> <p>3 writes, "Karen:"</p> <p>4 "Our egg merchant called me</p> <p>5 today to tell me UEP is pressuring suppliers</p> <p>6 to Kroger to 'sign up on the UEP standards'</p> <p>7 by April 1st."</p> <p>8 Suppliers are being told that</p> <p>9 if they don't get signed up by the 1st, they</p> <p>10 will "miss their chance."</p> <p>11 "Suppliers seem to be trying to</p> <p>12 scare companies like Kroger..."</p> <p>13 Do you see that?</p> <p>14 A. Yes, I do.</p> <p>15 MR. DAVIS: Objection.</p> <p>16 MR. BARNES: Objection to form.</p> <p>17 Move to strike. It's double hearsay,</p> <p>18 at least double hearsay.</p> <p>19 BY MR. PATTON:</p> <p>20 Q. What knowledge --</p> <p>21 MR. DAVIS: Excuse me.</p> <p>22 Objection. Misstates the document.</p> <p>23 BY MR. PATTON:</p> <p>24 Q. Is this -- did Ms. Brown ever</p> <p>25 inform you or raise with you the fact that</p>



<p style="text-align: right;">Page 154</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 UEP members were trying to scare Kroger to</p> <p>3 adopt UEP guidelines?</p> <p>4 MR. DAVIS: Objection.</p> <p>5 THE WITNESS: I don't recall Ms.</p> <p>6 Brown specifically telling me that</p> <p>7 that was the case.</p> <p>8 BY MR. PATTON:</p> <p>9 Q. What recollection do you have</p> <p>10 during this time period of pressure being put</p> <p>11 on retailers by the UEP independently?</p> <p>12 MR. DAVIS: Objection.</p> <p>13 THE WITNESS: Direct pressure, I</p> <p>14 was not aware of. Other than UEP's</p> <p>15 insistence to FMI that they approve</p> <p>16 their guidelines. But I was not aware</p> <p>17 of direct UEP to an individual retail</p> <p>18 company.</p> <p>19 BY MR. PATTON:</p> <p>20 Q. Did the FMI ever pressure any</p> <p>21 of its member companies to accept the UEP</p> <p>22 guidelines?</p> <p>23 A. No, we did not.</p> <p>24 Q. Would you find it odd that a</p> <p>25 trade association like the UEP would be</p>	<p style="text-align: right;">Page 156</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. I'm sorry, ask the question</p> <p>3 again?</p> <p>4 Q. Did there come a point in time</p> <p>5 that you recall that the UEP actually issued</p> <p>6 recommendations to its members with respect</p> <p>7 to different animal welfare guidelines?</p> <p>8 A. I'm sorry, I'm not</p> <p>9 understanding. Did UEP issue recommendations?</p> <p>10 Q. I'm sorry. I'm confusing UEP</p> <p>11 and FMI. Let's start this over again.</p> <p>12 Did there come a time when FMI</p> <p>13 actually issued a report in June of 2002</p> <p>14 regarding recommendations of different</p> <p>15 entities, different producer groups'</p> <p>16 guidelines?</p> <p>17 A. Yes.</p> <p>18 MR. PATTON: Let me mark that so</p> <p>19 we have it as part of the record.</p> <p>20 - - -</p> <p>21 (Exhibit H-13, 6/02 Report,</p> <p>22 Bates FMI-000015 - FMI-000022, was</p> <p>23 marked for identification.)</p> <p>24 - - -</p> <p>25 BY MR. PATTON:</p>
<p style="text-align: right;">Page 155</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 pressuring retailers to sign onto their</p> <p>3 guidelines?</p> <p>4 MR. DAVIS: Objection.</p> <p>5 THE WITNESS: Yes, I would find</p> <p>6 that unusual.</p> <p>7 BY MR. PATTON:</p> <p>8 Q. Would it be acceptable to you</p> <p>9 as a member of a trade association yourself?</p> <p>10 MR. DAVIS: Objection.</p> <p>11 THE WITNESS: It is not --</p> <p>12 MR. GREEN: You're asking her as</p> <p>13 a 30(b)(6)?</p> <p>14 MR. PATTON: Sure.</p> <p>15 THE WITNESS: It is not</p> <p>16 something we would do because it's not</p> <p>17 the way we would conduct business. So</p> <p>18 I can't speak on what UEP's policies</p> <p>19 are going on directly to retailers,</p> <p>20 but it does seem unusual.</p> <p>21 BY MR. PATTON:</p> <p>22 Q. Now, did there come a time when</p> <p>23 FMI actually issued recommendations with</p> <p>24 respect to different entities' welfare</p> <p>25 guidelines?</p>	<p style="text-align: right;">Page 157</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Take a look at this, but I'm</p> <p>3 just going to ask you a couple of -- about a</p> <p>4 couple of areas.</p> <p>5 Now, where it says -- the</p> <p>6 fourth full paragraph it says, FMI and NCCR</p> <p>7 have been working with independent, expert</p> <p>8 advisors and producer/processor community to</p> <p>9 promote "best practices" for each species</p> <p>10 that will ensure animal welfare -- or animal</p> <p>11 well-being throughout production and</p> <p>12 processing. Is that consistent with the</p> <p>13 initial goal that the FMI had which was to</p> <p>14 review guidelines to be consistent with best</p> <p>15 practices?</p> <p>16 A. Yes.</p> <p>17 Q. And what is this report?</p> <p>18 A. This was a status report that</p> <p>19 was actually shared with our members and made</p> <p>20 available to both FMI and NCCR members to</p> <p>21 apprise them of where we were in our process</p> <p>22 and what was the current status of each of</p> <p>23 the individual commodity guidelines.</p> <p>24 Q. And if you go through all of</p> <p>25 these guidelines, you'll see that they deal</p>

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<p style="text-align: right;">Page 158</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 with transportation and slaughter process,</p> <p>3 breeding and rearing, laying hens, dairy</p> <p>4 cattle, broiler turkeys, swine, cattles,</p> <p>5 ranch and feed lots. Right?</p> <p>6 A. Yes.</p> <p>7 Q. So this wasn't just a statement</p> <p>8 that was UEP specific, was it?</p> <p>9 A. No, this was for all of our</p> <p>10 work to date.</p> <p>11 Q. And was there portions of the</p> <p>12 UEP 2002 guidelines that the FMI did</p> <p>13 recommend to its membership?</p> <p>14 A. Yes. The UEP guidelines were</p> <p>15 supported by FMI with the understanding there</p> <p>16 were still some outstanding issues.</p> <p>17 Q. And what were those outstanding</p> <p>18 issues?</p> <p>19 A. I believe the primary ones were</p> <p>20 the issue of molting and also ammonia levels</p> <p>21 were, to my recollection, two of the bigger</p> <p>22 issues that were still outstanding.</p> <p>23 Q. And by recommending a portion</p> <p>24 of these guidelines, was FMI's message</p> <p>25 limited to the view that these portions of</p>	<p style="text-align: right;">Page 160</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 - - -</p> <p>3 (Exhibit H-14, Status reports,</p> <p>4 Bates FMI-000074 - FMI-000076, was</p> <p>5 marked for identification.)</p> <p>6 - - -</p> <p>7 BY MR. PATTON:</p> <p>8 Q. Let me hand you Exhibit 14.</p> <p>9 I'm going to represent to you that Exhibit 14</p> <p>10 bearing Bates number FMI-000074 is actually a</p> <p>11 composite exhibit that I've put together of</p> <p>12 status reports that FMI produced in the</p> <p>13 litigation.</p> <p>14 MR. DAVIS: Doug, are you</p> <p>15 representing that this is a complete</p> <p>16 compilation?</p> <p>17 MR. PATTON: It's what was --</p> <p>18 what I found that was produced.</p> <p>19 MR. DAVIS: I'll object to your</p> <p>20 characterization and preliminarily</p> <p>21 move to strike all testimony with</p> <p>22 respect to this document.</p> <p>23 MR. PATTON: Motion denied.</p> <p>24 BY MR. PATTON:</p> <p>25 Q. What is the first page of this</p>
<p style="text-align: right;">Page 159</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 the guidelines were consistent with best</p> <p>3 practices?</p> <p>4 MR. DAVIS: Objection.</p> <p>5 MR. MCKENNEY: Objection to</p> <p>6 form. Mischaracterizes testimony.</p> <p>7 THE WITNESS: Yes, when we</p> <p>8 endorsed or supported the various</p> <p>9 guidelines, it was based on the</p> <p>10 guidance from our experts saying that</p> <p>11 they now represented best practices</p> <p>12 with the proviso that there were some</p> <p>13 outstanding issues.</p> <p>14 BY MR. PATTON:</p> <p>15 Q. By "outstanding issues," you</p> <p>16 meant that they weren't necessarily</p> <p>17 consistent yet with best practices?</p> <p>18 MR. DAVIS: Objection.</p> <p>19 MS. ANDERSON: Objection.</p> <p>20 THE WITNESS: They were not yet</p> <p>21 resolved particularly between the</p> <p>22 experts and the industry in question</p> <p>23 as to what would be best practices and</p> <p>24 what would be a possible alternative</p> <p>25 or timeline to implement the changes.</p>	<p style="text-align: right;">Page 161</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 document, if you know?</p> <p>3 A. The first page is the one dated</p> <p>4 January 2003, was a status report of FMI and</p> <p>5 NCCR's endorsement of each of the different</p> <p>6 commodity groups current at that time, animal</p> <p>7 welfare guideline. And then it also</p> <p>8 identified what were ongoing outstanding</p> <p>9 issues.</p> <p>10 Q. And you see the -- well, first</p> <p>11 of all, it's relevant to all producer</p> <p>12 organizations, not just UEP. Right?</p> <p>13 A. It was for all the ones that we</p> <p>14 were reviewing at that time, yes.</p> <p>15 Q. By "endorsement," are you</p> <p>16 saying that FMI adopted these guidelines or</p> <p>17 that they acknowledged them to be consistent</p> <p>18 with best practices?</p> <p>19 MR. DAVIS: Objection.</p> <p>20 THE WITNESS: The endorsement</p> <p>21 implied that the guidelines in</p> <p>22 question were reviewed by our experts,</p> <p>23 and our experts agreed that these were</p> <p>24 current best practices.</p> <p>25 BY MR. PATTON:</p>

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<p style="text-align: right;">Page 162</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. When we looked at UEP, we see,</p> <p>3 at least for 2003, three bullet points,</p> <p>4 "ammonia levels," "light density," "forced</p> <p>5 molting." Those remained outstanding issues</p> <p>6 for the UEP. Is that right?</p> <p>7 A. Correct.</p> <p>8 Q. And what did that mean with</p> <p>9 respect to forced molting, that it was still</p> <p>10 an accepted practice in 2003?</p> <p>11 MR. MCKENNEY: Object to the</p> <p>12 form.</p> <p>13 THE WITNESS: Forced molting was</p> <p>14 still part of their guidelines, that</p> <p>15 it could be done. Again, they made a</p> <p>16 modification, they were not</p> <p>17 withdrawing water. They could do feed</p> <p>18 withdrawal. They tried to establish</p> <p>19 some dates for withdrawal, and they</p> <p>20 said that they would undertake</p> <p>21 scientific research to look at</p> <p>22 alternatives.</p> <p>23 BY MR. PATTON:</p> <p>24 Q. If you turn to the next page,</p> <p>25 you'll see that in October of 2004 is forced</p>	<p style="text-align: right;">Page 164</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 - - -</p> <p>3 BY MR. PATTON:</p> <p>4 Q. And I just -- after you have a</p> <p>5 moment to review these, let me know that they</p> <p>6 were actually produced from the files of FMI</p> <p>7 which to me indicates that you at least --</p> <p>8 that the FMI had received them?</p> <p>9 A. Yes, we were aware of these</p> <p>10 guidelines.</p> <p>11 Q. If you turn to the section on</p> <p>12 molting, which is page 179, do you see the</p> <p>13 same paragraph that I pointed out to you</p> <p>14 earlier, "However, until such time that these</p> <p>15 alternatives are available the shortest</p> <p>16 period of feed withdrawal possible should be</p> <p>17 used..."</p> <p>18 A. Yes, I see that.</p> <p>19 Q. So in these 2002 guidelines,</p> <p>20 they essentially remained the same as the</p> <p>21 2000 as it pertains to molting?</p> <p>22 A. Yes, they said molting was</p> <p>23 permissible.</p> <p>24 Q. And that wasn't consistent with</p> <p>25 best practices from FMI's perspective. Is</p>
<p style="text-align: right;">Page 163</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 molting still now a point of difference</p> <p>3 between FMI and UEP?</p> <p>4 A. Yes. In October 2004 when we</p> <p>5 updated our status report, it was still on</p> <p>6 the points of difference.</p> <p>7 Q. As a person who has been</p> <p>8 involved in animal welfare issues and a</p> <p>9 veterinarian, is depriving a hen of food for</p> <p>10 up to sometimes a week or two weeks the best</p> <p>11 way to treat an animal?</p> <p>12 MR. DAVIS: Objection.</p> <p>13 THE WITNESS: As a veterinarian,</p> <p>14 it was considered to be not consistent</p> <p>15 with best practices.</p> <p>16 BY MR. PATTON:</p> <p>17 Q. Now, let me mark the UEP</p> <p>18 guidelines for 2002 as Exhibit 15 to your</p> <p>19 deposition.</p> <p>20 - - -</p> <p>21 (Exhibit H-15, UEP Animal</p> <p>22 Husbandry Guidelines for U.S. Egg</p> <p>23 Laying Flocks 2002 Edition, Bates</p> <p>24 FMI-000171 - FMI-000186, was marked</p> <p>25 for identification.)</p>	<p style="text-align: right;">Page 165</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 that right?</p> <p>3 MR. DAVIS: Objection.</p> <p>4 THE WITNESS: FMI's experts</p> <p>5 still believed that there were other</p> <p>6 best practices that could be used in</p> <p>7 lieu of feed withdrawal for forced</p> <p>8 molting.</p> <p>9 BY MR. PATTON:</p> <p>10 Q. Now, if you turn to the section</p> <p>11 on the cage space which now is called "TIME</p> <p>12 PERIOD FOR IMPLEMENTATIONS," and it's 183,</p> <p>13 towards the end of the document.</p> <p>14 A. Yes.</p> <p>15 Q. You see where the 67 inches was</p> <p>16 moved up from 2012 to 2008. Right?</p> <p>17 A. Yes.</p> <p>18 Q. But did they ever reach</p> <p>19 72 inches?</p> <p>20 A. One of the things that the UEP</p> <p>21 had presented to us as an alternative to the</p> <p>22 original recommendation was to have a</p> <p>23 different requirement based on the type of</p> <p>24 bird because of its size.</p> <p>25 Q. I see. And was the FMI in a</p>

<p style="text-align: right;">Page 166</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 position to force or require the UEP to</p> <p>3 change these phase-in periods?</p> <p>4 A. No, we couldn't force them to</p> <p>5 change it. We only could provide them the</p> <p>6 advice or guidance from our experts.</p> <p>7 Q. And if they told you this is</p> <p>8 the best industry could do, was FMI in a</p> <p>9 position to dispute that?</p> <p>10 MR. DAVIS: Objection.</p> <p>11 THE WITNESS: FMI would have</p> <p>12 continued to take the position that</p> <p>13 that was a point where UEP and our</p> <p>14 experts differed.</p> <p>15 BY MR. PATTON:</p> <p>16 Q. But at this point in time, do</p> <p>17 you recall the UEP saying that any more</p> <p>18 compression of time would create market</p> <p>19 disruption?</p> <p>20 MR. DAVIS: Objection.</p> <p>21 THE WITNESS: Any compression of</p> <p>22 time?</p> <p>23 BY MR. PATTON:</p> <p>24 Q. Changing these times or these</p> <p>25 cage sizes -- let me strike that.</p>	<p style="text-align: right;">Page 168</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Now, if you turn to this page</p> <p>3 called "COMPLIANCE," and I'm going to get to</p> <p>4 that in a moment, do you see there is a</p> <p>5 section called "CERTIFICATION"?</p> <p>6 A. Yes.</p> <p>7 Q. And it explains how if you pass</p> <p>8 a UEP audit, that you will be designated a</p> <p>9 certified company?</p> <p>10 A. I see where it says that.</p> <p>11 Q. And it also explains that there</p> <p>12 would be a welfare seal, but that that still</p> <p>13 needed to be developed?</p> <p>14 A. Oh, I'm sorry, that was the</p> <p>15 next section?</p> <p>16 Q. Yeah.</p> <p>17 A. Yes, I see that.</p> <p>18 Q. So that still was in</p> <p>19 development at this point. Right?</p> <p>20 A. Yes.</p> <p>21 Q. Now, did the FMI regard the</p> <p>22 Animal Welfare Guidelines and what was to</p> <p>23 become the UEP's Animal Certified Program as</p> <p>24 two different things?</p> <p>25 A. FMI did not look at or consider</p>
<p style="text-align: right;">Page 167</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Changing these time periods or</p> <p>3 altering the cage space limitations would</p> <p>4 visit a hardship on UEP members?</p> <p>5 MR. DAVIS: Objection.</p> <p>6 THE WITNESS: In discussions</p> <p>7 with our experts, UEP did say that</p> <p>8 they needed time to phase in this</p> <p>9 change, and that was acceptable to our</p> <p>10 experts, that they could use time to</p> <p>11 do that.</p> <p>12 BY MR. PATTON:</p> <p>13 Q. I had early on asked you about</p> <p>14 was feasibility a limitation to best</p> <p>15 practices. Would this be an example of UEP</p> <p>16 saying it's just not feasible for us to do it</p> <p>17 any shorter or any better?</p> <p>18 A. This was what UEP told us they</p> <p>19 believed was achievable. And our experts</p> <p>20 agreed with them after discussing it with</p> <p>21 them.</p> <p>22 Q. Now -- and that was UEP's</p> <p>23 representations that were being made to the</p> <p>24 FMI. Is that right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 169</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 any type of certification or seal as part of</p> <p>3 that program.</p> <p>4 Q. And why is that?</p> <p>5 A. We -- for one thing, we always</p> <p>6 felt that it was a voluntary program. The</p> <p>7 application of the welfare requirements or</p> <p>8 standards that were in here was strictly</p> <p>9 between the suppliers and the buyers. And,</p> <p>10 therefore, FMI would not support or endorse</p> <p>11 any kind of certification or a seal.</p> <p>12 Q. And while FMI was willing to</p> <p>13 acknowledge or to a limited extent endorse</p> <p>14 the guidelines, it would not endorse a</p> <p>15 certification program. Is that what you're</p> <p>16 saying?</p> <p>17 MR. DAVIS: Objection.</p> <p>18 THE WITNESS: That is correct.</p> <p>19 BY MR. PATTON:</p> <p>20 Q. Do you recall whether or not</p> <p>21 Mr. Gregory and Mr. Al Pope tried to get the</p> <p>22 FMI to acknowledge or sign off on the</p> <p>23 certification program?</p> <p>24 MR. DAVIS: Objection.</p> <p>25 THE WITNESS: Yes, they did.</p>

<p style="text-align: right;">Page 170</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. PATTON:</p> <p>3 Q. Explain to me how they made</p> <p>4 that effort.</p> <p>5 A. Through both personal visits,</p> <p>6 e-mail communication, phone call</p> <p>7 communication, both Mr. Pope and Mr. Gregory</p> <p>8 wanted us to support their certification</p> <p>9 program and acknowledge it, and to encourage</p> <p>10 its use.</p> <p>11 Q. Did FMI do that?</p> <p>12 A. We repeatedly told them we</p> <p>13 could not and would not do that.</p> <p>14 Q. So it's clear, FMI never asked</p> <p>15 the UEP to develop a certification program,</p> <p>16 did it?</p> <p>17 A. We did not.</p> <p>18 Q. Did FMI, on behalf of its</p> <p>19 members, ask the UEP to create or adopt a</p> <p>20 certification program?</p> <p>21 A. No, we did not.</p> <p>22 Q. Is a distinction in your mind</p> <p>23 that animal welfare guidelines are -- deal</p> <p>24 with animal welfare, but certification is a</p> <p>25 producer marketing deal? Is that what I hear</p>	<p style="text-align: right;">Page 172</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 NCCR adopt these guidelines?</p> <p>3 A. It does not say that.</p> <p>4 Q. Does it say that the FMI is</p> <p>5 going to promote these guidelines to</p> <p>6 producers and members?</p> <p>7 A. It does not say that.</p> <p>8 Q. What do you understand it means</p> <p>9 to say that the FMI reviewed these</p> <p>10 guidelines?</p> <p>11 MR. DAVIS: Objection.</p> <p>12 THE WITNESS: Our understanding</p> <p>13 and FMI's understanding was that they</p> <p>14 were acknowledging the fact that</p> <p>15 through our experts we did look at the</p> <p>16 guidelines and provide them our</p> <p>17 comment and input on the current</p> <p>18 guidelines.</p> <p>19 BY MR. PATTON:</p> <p>20 Q. I'm done with these guidelines.</p> <p>21 Let me mark with you Exhibit 16</p> <p>22 to your deposition.</p> <p>23 - - -</p> <p>24 (Exhibit H-16, 7/16/02 Letter,</p> <p>25 Bates FMI-000293 &amp; FMI-000294, was</p>
<p style="text-align: right;">Page 171</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 you saying?</p> <p>3 MR. DAVIS: Objection.</p> <p>4 Mischaracterizes her testimony.</p> <p>5 Argumentative.</p> <p>6 THE WITNESS: We made it clear</p> <p>7 that our endorsement was of those</p> <p>8 components of the Animal Welfare</p> <p>9 Guidelines that our experts reviewed</p> <p>10 and commented on. It had nothing to</p> <p>11 do with any kind of certification or</p> <p>12 seal.</p> <p>13 BY MR. PATTON:</p> <p>14 Q. Or logo-ing that said animal</p> <p>15 certified?</p> <p>16 A. Exactly. None of that.</p> <p>17 Q. If you turn to the second to</p> <p>18 the last page, there's "ACKNOWLEDGMENTS."</p> <p>19 And at the bottom there's one from the Food</p> <p>20 Marketing Institute and National Council For</p> <p>21 Chain Restaurants. It says, acknowledgment</p> <p>22 for reviewing these guidelines. Is that</p> <p>23 right?</p> <p>24 A. Yes.</p> <p>25 Q. Does it say that the FMI and</p>	<p style="text-align: right;">Page 173</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 marked for identification.)</p> <p>3 - - -</p> <p>4 BY MR. PATTON:</p> <p>5 Q. Exhibit 16 is a July 16, 2002,</p> <p>6 letter to Tim Hammonds and Karen Brown and</p> <p>7 Terrie Dort, from Al Pope, President of the</p> <p>8 UEP, and it's bearing Bates stamp FMI-00293,</p> <p>9 so we know FMI received this. Right?</p> <p>10 A. Yes.</p> <p>11 Q. If you -- it says in the first</p> <p>12 sentence, "...Tim, Terrie and Karen:</p> <p>13 Recognizing that it may sound repetitive, I</p> <p>14 again want to thank you, on behalf of both</p> <p>15 our Board and Staff, for the cooperation</p> <p>16 you...have extended."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. I'm just going to skip to the</p> <p>20 last paragraph that says another issue. The</p> <p>21 good news and bad news. The press release</p> <p>22 went off without any controversy on the</p> <p>23 issue. That's the good news. The bad news</p> <p>24 is that very few of our customers are asking</p> <p>25 that the guidelines be part of their</p>

<p style="text-align: right;">Page 174</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 specifications. In fact, on two recent bids,</p> <p>3 industry was told that it is only a public</p> <p>4 relations issue and they purchased eggs from</p> <p>5 the lowest bidder. This is not certified</p> <p>6 companies. This program will fail if our</p> <p>7 customers are not committed to the program to</p> <p>8 the same degree as the industry. We welcome</p> <p>9 your advice and assistance.</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Is this consistent with Mr.</p> <p>13 Pope's efforts to get the FMI to endorse or</p> <p>14 sign on to the certification program?</p> <p>15 A. I believe that my understanding</p> <p>16 when Mr. Pope made this comment was that he</p> <p>17 was hoping that FMI and NCCR would</p> <p>18 specifically request of our members that we</p> <p>19 asked for these guidelines and only from</p> <p>20 suppliers who were using the guidelines.</p> <p>21 Q. He wanted you to contact</p> <p>22 members and ask them to require that the UEP</p> <p>23 guidelines be part of their specifications?</p> <p>24 MR. DAVIS: Objection.</p> <p>25 BY MR. PATTON:</p>	<p style="text-align: right;">Page 176</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Perhaps from a trade</p> <p>3 association perspective if the intent was to</p> <p>4 have all their members consistent, but it was</p> <p>5 odd in that also Mr. Pope would understand</p> <p>6 that as a trade association, we cannot ask</p> <p>7 our members to do something like that.</p> <p>8 Q. Let me hand you what's been</p> <p>9 marked as Exhibit 17.</p> <p>10 - - -</p> <p>11 (Exhibit H-17, 7/2/02 Letter,</p> <p>12 Bates FMI-000050, was marked for</p> <p>13 identification.)</p> <p>14 - - -</p> <p>15 BY MR. PATTON:</p> <p>16 Q. Exhibit 17 is a letter dated</p> <p>17 July 2, 2002, from Al Pope to FMI and NCCR</p> <p>18 members.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. It is on UEP letterhead?</p> <p>22 A. Yes.</p> <p>23 Q. Now, you're not addressed on</p> <p>24 this letter and neither is anyone at the FMI.</p> <p>25 I take it that these were letters that were</p>
<p style="text-align: right;">Page 175</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Am I understanding that</p> <p>3 correct?</p> <p>4 MR. DAVIS: Mischaracterizes her</p> <p>5 testimony. Misstates the document.</p> <p>6 And is argumentative.</p> <p>7 MR. MCKENNEY: Objection.</p> <p>8 Leading.</p> <p>9 THE WITNESS: Yes, that was our</p> <p>10 understanding.</p> <p>11 BY MR. PATTON:</p> <p>12 Q. Had you had conversations with</p> <p>13 Mr. Pope where he wanted you to send the</p> <p>14 guidelines to members and encourage them to</p> <p>15 make them part of their guidelines -- of</p> <p>16 their purchasing specifications?</p> <p>17 MR. DAVIS: Objection.</p> <p>18 THE WITNESS: I don't know that</p> <p>19 he specifically said send them the</p> <p>20 guidelines, but he did say that he had</p> <p>21 asked FMI and NCCR to ask our members</p> <p>22 to require these guidelines of their</p> <p>23 suppliers.</p> <p>24 BY MR. PATTON:</p> <p>25 Q. Did that strike you as odd?</p>	<p style="text-align: right;">Page 177</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 sent from the UEP to individual FMI members.</p> <p>3 Is that fair?</p> <p>4 MR. DAVIS: Objection.</p> <p>5 Mischaracterizes the document.</p> <p>6 THE WITNESS: I have to question</p> <p>7 the fact that up at the top he does</p> <p>8 have both the FMI address and the NCCR</p> <p>9 address.</p> <p>10 BY MR. PATTON:</p> <p>11 Q. And the salutation says FMI and</p> <p>12 NCCR members, that's why I'm confused. Do</p> <p>13 you know if this letter was ever sent to FMI</p> <p>14 members?</p> <p>15 A. If you can give me just a</p> <p>16 moment to read it, please.</p> <p>17 Q. Sure.</p> <p>18 A. I can only say based on past</p> <p>19 FMI practices, that a letter like this -- we</p> <p>20 would strongly object to a letter like this</p> <p>21 that bore our title and address at the top</p> <p>22 because it appears that we were in support of</p> <p>23 this. I don't know if this was sent to FMI,</p> <p>24 without looking further in the records, if</p> <p>25 this was sent to FMI and we were asked would</p>

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<p style="text-align: right;">Page 178</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 we approve or allow them to send this. I</p> <p>3 don't know if it was ever actually sent.</p> <p>4 Q. By this you're referring to a</p> <p>5 letter that says thank you and a request at</p> <p>6 the top. Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And the request is, it says,</p> <p>9 "We respectfully ask and need your help." At</p> <p>10 the end of the paragraph I've just read it</p> <p>11 says, "To the extent that your company makes</p> <p>12 these guidelines a part of your purchasing</p> <p>13 specifications, together we can achieve both</p> <p>14 our goals."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Is the UEP trying to reach out</p> <p>18 to individual FMI and NCCR members to get</p> <p>19 them to make the guidelines part of their</p> <p>20 purchasing specifications?</p> <p>21 MR. DAVIS: Objection.</p> <p>22 THE WITNESS: That is what it</p> <p>23 says.</p> <p>24 BY MR. PATTON:</p> <p>25 Q. Would FMI ever do that?</p>	<p style="text-align: right;">Page 180</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 by FMI bearing Bates number 00286. It's</p> <p>3 dated September 9, 2002. It's to</p> <p>4 Mr. Hammonds and Terrie Dort. And it's on</p> <p>5 UEP letterhead. Have I correctly described</p> <p>6 the document?</p> <p>7 A. Yes.</p> <p>8 Q. And was this received and</p> <p>9 produced by FMI in its files?</p> <p>10 A. Yes.</p> <p>11 Q. It indicates that the UEP now</p> <p>12 has approximately 80 percent of all egg</p> <p>13 producers in the U.S. under the certification</p> <p>14 program. And then it says, "Enclosed is the</p> <p>15 press release..."</p> <p>16 "Would it be possible to share</p> <p>17 this with your membership? We would greatly</p> <p>18 appreciate your sending it to them."</p> <p>19 And you're cc'd on it. Do you</p> <p>20 see that?</p> <p>21 A. Yes.</p> <p>22 Q. Was this consistent with UEP's</p> <p>23 campaign to try to get the FMI to send their</p> <p>24 guidelines to FMI members?</p> <p>25 MR. DAVIS: Objection.</p>
<p style="text-align: right;">Page 179</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. FMI would not. We would make</p> <p>3 our members aware of something that was</p> <p>4 available, but we could not ask them to</p> <p>5 accept it.</p> <p>6 Q. Did you say you found this</p> <p>7 objectionable?</p> <p>8 MR. DAVIS: Objection.</p> <p>9 Misstates her testimony.</p> <p>10 BY MR. PATTON:</p> <p>11 Q. I can't remember the word you</p> <p>12 used.</p> <p>13 A. If it was sent to FMI and we</p> <p>14 were asked is it okay if UEP sends this out,</p> <p>15 we would have said we don't approve sending</p> <p>16 this out.</p> <p>17 MR. PATTON: Let me mark</p> <p>18 Exhibit 18.</p> <p>19 - - -</p> <p>20 (Exhibit H-18, 9/9/02 Letter,</p> <p>21 Bates FMI-000286 - FMI-000288, was</p> <p>22 marked for identification.)</p> <p>23 - - -</p> <p>24 BY MR. PATTON:</p> <p>25 Q. Exhibit 18 is a letter produced</p>	<p style="text-align: right;">Page 181</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 MR. MCKENNEY: Objection.</p> <p>3 THE WITNESS: This specifically</p> <p>4 was asking FMI to share with our</p> <p>5 members the certification program,</p> <p>6 information on that certification.</p> <p>7 BY MR. PATTON:</p> <p>8 Q. Is that something that FMI</p> <p>9 refused to do?</p> <p>10 A. To the best of my knowledge, we</p> <p>11 did not do this as was requested, that is, we</p> <p>12 would not have, to the best of my knowledge,</p> <p>13 sent this to our members. However, we do</p> <p>14 make our members aware, usually on our Web</p> <p>15 site, of various press releases that impact</p> <p>16 the industry. So they may have known such a</p> <p>17 press release existed. We would not -- it</p> <p>18 would be unlikely that FMI would ever</p> <p>19 actually mail something like this to its</p> <p>20 members.</p> <p>21 Q. If you look at the last page,</p> <p>22 there's that -- what is that, is that a logo,</p> <p>23 Animal Care Certified?</p> <p>24 A. That is the logo that UEP used</p> <p>25 as part of their certification program.</p>

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<p style="text-align: right;">Page 182</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. And there's a press release and</p> <p>3 they wanted you to send it to your members.</p> <p>4 Right?</p> <p>5 A. That is what the letter</p> <p>6 requests.</p> <p>7 Q. Your recollection is you didn't</p> <p>8 do it?</p> <p>9 A. Correct.</p> <p>10 MR. MCKENNEY: Objection.</p> <p>11 Leading.</p> <p>12 BY MR. PATTON:</p> <p>13 Q. Let me show you what's been</p> <p>14 marked as Exhibit 19.</p> <p>15 - - -</p> <p>16 (Exhibit H-19, What Happens If</p> <p>17 100% Committed is Changed?, Bates</p> <p>18 MOARK0000338 - MOARK0000342, was</p> <p>19 marked for identification.)</p> <p>20 - - -</p> <p>21 BY MR. PATTON:</p> <p>22 Q. Exhibit 19 is a document</p> <p>23 produced in this litigation, and it bears</p> <p>24 Bates number MOARK0000338. It's not marked</p> <p>25 confidential or highly confidential.</p>	<p style="text-align: right;">Page 184</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 program. Were you aware that the UEP thought</p> <p>3 that they had sold this program to you?</p> <p>4 MR. DAVIS: Objection. Lacks</p> <p>5 foundation.</p> <p>6 THE WITNESS: I believe that UEP</p> <p>7 felt that they had successfully</p> <p>8 presented us a compromised position</p> <p>9 for phasing in cage space and in</p> <p>10 particular their proposal to base it</p> <p>11 on the type of bird in the cage. They</p> <p>12 presented that to us as an</p> <p>13 alternative, we discussed it with our</p> <p>14 experts and we did accept that.</p> <p>15 BY MR. PATTON:</p> <p>16 Q. When -- I guess my question</p> <p>17 wasn't very good.</p> <p>18 When you met with them, did</p> <p>19 they say we're here to try to sell you on</p> <p>20 this?</p> <p>21 MR. DAVIS: Objection.</p> <p>22 THE WITNESS: I don't believe</p> <p>23 they would have used or did use that</p> <p>24 particular word.</p> <p>25 BY MR. PATTON:</p>
<p style="text-align: right;">Page 183</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 This is an internal UEP</p> <p>3 document that was produced in the case. I'd</p> <p>4 like you to look at the paragraph that starts</p> <p>5 with "October 18, 2001..."</p> <p>6 A. Yes.</p> <p>7 Q. It says, "Staff and producers</p> <p>8 took the above motion to FMI and NCCR...",</p> <p>9 and that the motion that's being referred to</p> <p>10 is the time period for implementation of</p> <p>11 guidelines. Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. And it says -- well, focusing</p> <p>14 on staff and producers, is that consistent</p> <p>15 with your recollection that at the time UEP</p> <p>16 and producer members came to visit FMI?</p> <p>17 MR. DAVIS: Objection. Lacks</p> <p>18 foundation.</p> <p>19 THE WITNESS: Yes, but I believe</p> <p>20 that this was strictly focused on the</p> <p>21 cage space issue, not the guidelines</p> <p>22 as a whole.</p> <p>23 BY MR. PATTON:</p> <p>24 Q. Do you see it says, UEP sold</p> <p>25 FMI and NCCR on the benefits of adopting this</p>	<p style="text-align: right;">Page 185</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Were you aware until today that</p> <p>3 internally they believed they sold you on it?</p> <p>4 MR. DAVIS: Objection. Lacks</p> <p>5 foundation.</p> <p>6 THE WITNESS: Again, the word</p> <p>7 "sold" is not how I -- how I</p> <p>8 understood what we did which was to</p> <p>9 discuss and reach a compromise.</p> <p>10 BY MR. PATTON:</p> <p>11 Q. Did you believe the UEP</p> <p>12 presented themselves as honest and</p> <p>13 trustworthy?</p> <p>14 MR. MCKENNEY: Objection. Form.</p> <p>15 THE WITNESS: I think, again,</p> <p>16 the word "sold" I find offensive</p> <p>17 because we felt it was a compromise.</p> <p>18 BY MR. PATTON:</p> <p>19 Q. Let me have you turn to the</p> <p>20 Bates stamp bearing 341. It's entitled at</p> <p>21 the top, "The Marketplace and USDA."</p> <p>22 A. Within this document?</p> <p>23 Q. Yes.</p> <p>24 A. Yes, I have it.</p> <p>25 Q. Do you see the paragraph that's</p>

<p style="text-align: right;">Page 186</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 the fourth one down, that says, While</p> <p>3 producers have signed on and made commitments</p> <p>4 to UEP, it is disappointing that FMI and NCCR</p> <p>5 have not required commitments from their</p> <p>6 members.</p> <p>7 That's correct, right, FMI</p> <p>8 never required commitments from its members?</p> <p>9 A. That is correct, we did not</p> <p>10 require that.</p> <p>11 Q. Did FMI require a member to</p> <p>12 choose the UEP guidelines as opposed to maybe</p> <p>13 McDonald's or someone else's?</p> <p>14 A. No, what we did was made our</p> <p>15 members aware of the guidelines that we had</p> <p>16 reviewed and which our experts said they</p> <p>17 believed reflected best practices.</p> <p>18 Q. Now, were you also told or</p> <p>19 informed by the UEP that there would be a</p> <p>20 hard cost to their members, the UEP members</p> <p>21 adopting their guidelines?</p> <p>22 A. In general, all of the</p> <p>23 commodity groups would in their discussions</p> <p>24 with us make us aware of the fact that</p> <p>25 certain changes in practices could cost them</p>	<p style="text-align: right;">Page 188</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 been aware of that discussion if that</p> <p>3 was their internal discussion.</p> <p>4 BY MR. PATTON:</p> <p>5 Q. What knowledge do you have of</p> <p>6 the UEP members collectively agreeing to pass</p> <p>7 on their animal welfare costs to retailers?</p> <p>8 MR. DAVIS: Objection.</p> <p>9 THE WITNESS: We have no</p> <p>10 knowledge of that.</p> <p>11 BY MR. PATTON:</p> <p>12 Q. Do you see down here on point</p> <p>13 3, in the reference to costs it says, "Hope</p> <p>14 that as guidelines are implemented the flock</p> <p>15 size will decline and egg prices will</p> <p>16 increase to more than cover the costs." What</p> <p>17 knowledge do you have that UEP was internally</p> <p>18 hoping that the Animal Welfare Guidelines</p> <p>19 would reduce flock size, increase prices and</p> <p>20 more than cover the cost for animal welfare?</p> <p>21 MR. DAVIS: Objection.</p> <p>22 THE WITNESS: We had no</p> <p>23 knowledge.</p> <p>24 BY MR. PATTON:</p> <p>25 Q. Is it surprising to you that</p>
<p style="text-align: right;">Page 187</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 money. But those conversations also</p> <p>3 discussed ways in which money could be saved</p> <p>4 by implementing best practices.</p> <p>5 Q. Turn to the last page. It</p> <p>6 says in words with regards to recovery of</p> <p>7 costs, it says, Pass on the costs to their</p> <p>8 customers. Only allow the use of Animal Care</p> <p>9 Certified logo to those customers that agree</p> <p>10 to pay the costs.</p> <p>11 In your discussions with UEP,</p> <p>12 did they ever tell you or even imply to you</p> <p>13 that part of their plan was to take these</p> <p>14 costs and pass them on to their own</p> <p>15 customers?</p> <p>16 MR. DAVIS: Objection.</p> <p>17 THE WITNESS: There was never a</p> <p>18 specific discussion about that, no.</p> <p>19 BY MR. PATTON:</p> <p>20 Q. What knowledge do you have that</p> <p>21 UEP's internal goal of passing on the animal</p> <p>22 welfare costs to retailers such as members of</p> <p>23 FMI?</p> <p>24 MR. DAVIS: Objection.</p> <p>25 THE WITNESS: We would not have</p>	<p style="text-align: right;">Page 189</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 UEP internally regarded these Welfare</p> <p>3 Guidelines as a means to reduce flock size</p> <p>4 and increase egg prices?</p> <p>5 MR. DAVIS: Objection.</p> <p>6 THE WITNESS: I can't speak for</p> <p>7 how UEP conducts business, but this</p> <p>8 would have not been something that FMI</p> <p>9 would have been pleased to know.</p> <p>10 MR. PATTON: Hang on one second.</p> <p>11 What time do we have? Why don't we</p> <p>12 break for lunch at this point.</p> <p>13 MR. DAVIS: Sure. I'll move to</p> <p>14 strike all testimony about this</p> <p>15 document. You laid no foundation that</p> <p>16 she seen it. You have actually laid</p> <p>17 an affirmative foundation that she</p> <p>18 hasn't seen it.</p> <p>19 VIDEOGRAPHER: Going off the</p> <p>20 record. The time of 12:25.</p> <p>21 - - -</p> <p>22 (A recess was taken.)</p> <p>23 - - -</p> <p>24 VIDEOGRAPHER: We're back on the</p> <p>25 video record. The start of disc</p>

<p style="text-align: right;">Page 190</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 three. The time is 1:30.</p> <p>3 BY MR. PATTON:</p> <p>4 Q. Good afternoon, Dr. Hollingsworth.</p> <p>5 A. Same to you.</p> <p>6 Q. Is there any part of your</p> <p>7 testimony this morning that you would like to</p> <p>8 change?</p> <p>9 A. No.</p> <p>10 Q. Were you aware that the UEP had</p> <p>11 hired a public relations firm by the name of</p> <p>12 GolinHarris to promote the UEP Animal Welfare</p> <p>13 Guidelines?</p> <p>14 MR. DAVIS: Objection.</p> <p>15 THE WITNESS: No, I don't recall</p> <p>16 that.</p> <p>17 BY MR. PATTON:</p> <p>18 Q. Were you aware that they hired</p> <p>19 a national public relation firm to promote</p> <p>20 their Animal Certified Program?</p> <p>21 A. Not directly, no.</p> <p>22 - - -</p> <p>23 (Exhibit H-20, United Voice</p> <p>24 publication, Bates DAY0017605 -</p> <p>25 DAY0017612, was marked for</p>	<p style="text-align: right;">Page 192</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 facilities to replace the lost number of</p> <p>3 birds."</p> <p>4 Were you aware of -- that the</p> <p>5 UEP in conjunction with reducing henhouse</p> <p>6 capacity was also cautioning its members not</p> <p>7 to build new henhouses?</p> <p>8 MR. DAVIS: Objection.</p> <p>9 THE WITNESS: No, I was not</p> <p>10 aware of that.</p> <p>11 BY MR. PATTON:</p> <p>12 Q. Now under -- was it ever your</p> <p>13 understanding that in connection with the</p> <p>14 Animal Welfare Guidelines, that egg producers</p> <p>15 couldn't build larger cages or bigger</p> <p>16 henhouses?</p> <p>17 MR. DAVIS: Objection. Vague</p> <p>18 and misleading.</p> <p>19 THE WITNESS: Yes, they could</p> <p>20 have done either of those.</p> <p>21 BY MR. PATTON:</p> <p>22 Q. So simply because there's an</p> <p>23 increase in the cage space per bird doesn't</p> <p>24 mean that UEP couldn't build a 20-by-30 foot</p> <p>25 cage and put as many hens as they could as</p>
<p style="text-align: right;">Page 191</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 identification.)</p> <p>3 - - -</p> <p>4 BY MR. PATTON:</p> <p>5 Q. Let me hand you what has been</p> <p>6 marked as Exhibit 20 to your deposition.</p> <p>7 These are -- this is a United Voices</p> <p>8 publication issued by the UEP. Are you</p> <p>9 familiar with this magazine?</p> <p>10 A. I am, yes.</p> <p>11 Q. Let me have you turn to page 4</p> <p>12 of the document. You'll see that at the</p> <p>13 bottom it's dated July 17, 2003?</p> <p>14 A. Yes.</p> <p>15 Q. This is about a little under a</p> <p>16 year after the UEP had issued their 2002</p> <p>17 guidelines. Is that about right?</p> <p>18 A. Yes.</p> <p>19 Q. You see at the top where it</p> <p>20 says, "Word Of Caution"?</p> <p>21 A. Yes.</p> <p>22 Q. It says, "As producers continue</p> <p>23 to reduce their layer house capacity to meet</p> <p>24 the UEP Animal Husbandry Guidelines, please</p> <p>25 don't make the mistake of building new</p>	<p style="text-align: right;">Page 193</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 long as they meet the cage space</p> <p>3 requirements?</p> <p>4 MR. DAVIS: Objection to form.</p> <p>5 THE WITNESS: That would be</p> <p>6 correct.</p> <p>7 BY MR. PATTON:</p> <p>8 Q. Did anyone tell that you the</p> <p>9 UEP had other intentions which was to try to</p> <p>10 limit the expansion of new henhouses or</p> <p>11 different size cages --</p> <p>12 MR. DAVIS: Objection.</p> <p>13 BY MR. PATTON:</p> <p>14 Q. -- while they were implementing</p> <p>15 the UEP guidelines?</p> <p>16 A. No.</p> <p>17 Q. I want to go back to the</p> <p>18 subject of the UEP requesting support from</p> <p>19 FMI. Do you remember that we touched on that</p> <p>20 this morning?</p> <p>21 A. Yes.</p> <p>22 Q. Were you aware that from time</p> <p>23 to time the UEP in the 2005 time period would</p> <p>24 reach out to the FMI and solicit FMI to write</p> <p>25 letters of support for the UEP?</p>

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<p style="text-align: right;">Page 194</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. And, again, did you find that</p> <p>4 somewhat odd?</p> <p>5 A. Not necessarily. Whenever we</p> <p>6 had a joint venture with any trade</p> <p>7 association on any issue, we might jointly</p> <p>8 issue a press release or a letter supporting</p> <p>9 what we had done together.</p> <p>10 Q. But the fact that the UEP was</p> <p>11 asking the FMI to write letters to its</p> <p>12 members to abide by the UEP guidelines, would</p> <p>13 that have struck you as odd?</p> <p>14 MR. DAVIS: Objection.</p> <p>15 Misstates the record.</p> <p>16 THE WITNESS: It is something we</p> <p>17 would not have done.</p> <p>18 MR. PATTON: Let me mark</p> <p>19 Exhibit 21.</p> <p>20 - - -</p> <p>21 (Exhibit H-21, E-mail chain,</p> <p>22 Bates FMI-001514 &amp; FMI-001515, was</p> <p>23 marked for identification.)</p> <p>24 - - -</p> <p>25 BY MR. PATTON:</p>	<p style="text-align: right;">Page 196</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 the recommendations of a scientific advisory</p> <p>3 committee."</p> <p>4 It then goes on and explains</p> <p>5 how the committee spent three years, it talks</p> <p>6 about the seal on egg cartons and Animal Care</p> <p>7 Certified Program. And then it ends with a</p> <p>8 sentence that says, "A quick note from you</p> <p>9 simply commending the egg industry for trying</p> <p>10 to improve the welfare of chickens would be</p> <p>11 helpful. Karen, the letter can be addressed</p> <p>12 to me and faxed?"</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Do you know who Ken Klippen is?</p> <p>16 A. I do.</p> <p>17 Q. Who is he?</p> <p>18 A. At this time he was the Vice</p> <p>19 President For Government Relations at UEP.</p> <p>20 Q. And is your interpretation of</p> <p>21 this e-mail that the UEP is reaching out and</p> <p>22 asking the FMI for a letter commending the</p> <p>23 UEP on their efforts?</p> <p>24 MR. DAVIS: Objection.</p> <p>25 Misstates the document.</p>
<p style="text-align: right;">Page 195</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. For the record, I've placed in</p> <p>3 front of you a document which is an e-mail</p> <p>4 from Ken Klippen to several individuals, but</p> <p>5 if you look at the top, Ken Klippen also sent</p> <p>6 this e-mail to you. Wait, I take that back.</p> <p>7 You're not copied on this e-mail. That's</p> <p>8 another one.</p> <p>9 This is an e-mail dated</p> <p>10 August 2, 2004, from -- by and between Karen</p> <p>11 Brown and Ken Klippen, and it bears Bates</p> <p>12 number FMI-001514.</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. This is produced by FMI in the</p> <p>16 regular course of this litigation?</p> <p>17 A. Yes.</p> <p>18 Q. Now, let's start with the first</p> <p>19 e-mail which is on the second page, and it's</p> <p>20 dated July 27, 2004. Do you see the single</p> <p>21 spaced e-mail that says, "Hi Karen, This idea</p> <p>22 will make you and FMI look really good in the</p> <p>23 eyes of the egg industry. A letter from you</p> <p>24 to United Egg Producers commending us for</p> <p>25 developing animal welfare guidelines based on</p>	<p style="text-align: right;">Page 197</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 THE WITNESS: Yes. They were</p> <p>3 asking for a letter.</p> <p>4 BY MR. PATTON:</p> <p>5 Q. And it says, "A quick note from</p> <p>6 you simply commending the egg industry...to</p> <p>7 improve the welfare of chickens would be</p> <p>8 helpful." Right?</p> <p>9 A. Yes.</p> <p>10 Q. Now, the FMI, did it ever ask</p> <p>11 the UEP for letters?</p> <p>12 A. I don't recall us asking for</p> <p>13 any specific letters. As we work with the</p> <p>14 different industries, sometimes we would</p> <p>15 agree to do a joint press release or a joint</p> <p>16 announcement of a standard, but that would be</p> <p>17 it.</p> <p>18 Q. In all of the instances I've</p> <p>19 shown you today, this is the UEP --</p> <p>20 A. Yes.</p> <p>21 Q. -- reaching out to the FMI and</p> <p>22 requesting a letter?</p> <p>23 A. Yes, this was UEP's request to</p> <p>24 us to do that.</p> <p>25 Q. So now Karen responds and</p>

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<p style="text-align: right;">Page 198</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 says -- well, first, the importance on this</p> <p>3 e-mail is high and the subject is "Help."</p> <p>4 Right?</p> <p>5 A. Yes.</p> <p>6 Q. So this is the UEP asking for</p> <p>7 help?</p> <p>8 A. Right.</p> <p>9 MR. DAVIS: Objection.</p> <p>10 Misstates the document. Excuse me.</p> <p>11 Objection. Misstates the document.</p> <p>12 BY MR. PATTON:</p> <p>13 Q. And then it says, can you --</p> <p>14 Karen says, "Can you send me some bullet</p> <p>15 points? (I don't need a draft from Gene.)"</p> <p>16 Do you understand what Karen</p> <p>17 was saying?</p> <p>18 A. Karen was saying back to Ken</p> <p>19 that we could probably do something, but we</p> <p>20 would have to see specifically what it was</p> <p>21 they wanted us to say and that we didn't need</p> <p>22 UEP to actually write it for us, but just</p> <p>23 give us some idea as to what content they</p> <p>24 were looking for.</p> <p>25 Q. And then Mr. Klippen responds</p>	<p style="text-align: right;">Page 200</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. And then she writes basically</p> <p>3 that she'd be happy to do it for our</p> <p>4 feathered and furry friends. Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Do you believe Ms. Brown</p> <p>7 actually thought that she was promoting</p> <p>8 animal welfare when she would respond to</p> <p>9 these requests?</p> <p>10 MR. DAVIS: Objection.</p> <p>11 THE WITNESS: I believe that</p> <p>12 Karen that felt by writing such</p> <p>13 letters and her reference to feathered</p> <p>14 and furry friends, she was talking</p> <p>15 about all the commodity groups, that</p> <p>16 it was a good thing to share with</p> <p>17 people what we were doing together.</p> <p>18 BY MR. PATTON:</p> <p>19 Q. Do you know if Ms. Brown ever</p> <p>20 thought that she was supporting an</p> <p>21 industry-wide supply restraint in a</p> <p>22 conspiracy to increase prices of eggs?</p> <p>23 MR. DAVIS: Objection. Lacks</p> <p>24 foundation, and calls for speculation.</p> <p>25 THE WITNESS: FMI would not have</p>
<p style="text-align: right;">Page 199</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 and he identifies several bullet points,</p> <p>3 "Congratulations to UEP...", "Guidelines</p> <p>4 based on...Scientific Advisory Committee...",</p> <p>5 and all of that, but nothing in there is</p> <p>6 about the certified program. Right?</p> <p>7 A. In these bullets, there's</p> <p>8 nothing about the certified program.</p> <p>9 Q. So in his initial request he</p> <p>10 had included the certified program, but in</p> <p>11 his bullets he took it out?</p> <p>12 A. That's correct.</p> <p>13 Q. And that's because FMI would</p> <p>14 not support or endorse the certified program.</p> <p>15 Is that right?</p> <p>16 MR. DAVIS: Objection.</p> <p>17 THE WITNESS: We had made it</p> <p>18 known to UEP that we could not and</p> <p>19 would not support a certification.</p> <p>20 BY MR. PATTON:</p> <p>21 Q. Do you know if Karen ever wrote</p> <p>22 the letter or prepared it?</p> <p>23 A. I believe Karen did work with</p> <p>24 Tim and Terrie Dort from the NCCR to have</p> <p>25 such a letter prepared.</p>	<p style="text-align: right;">Page 201</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 done that, thereby Karen Brown would</p> <p>3 not have done that.</p> <p>4 MR. PATTON: Let me mark</p> <p>5 Exhibit 22.</p> <p>6 - - -</p> <p>7 (Exhibit H-22, E-mail chain,</p> <p>8 Bates FMI-003090 - FMI-003091, was</p> <p>9 marked for identification.)</p> <p>10 - - -</p> <p>11 BY MR. PATTON:</p> <p>12 Q. Exhibit 22 is an e-mail</p> <p>13 exchange between Gene Gregory and Karen</p> <p>14 Brown, dated May 3, 2005, produced by FMI on</p> <p>15 its -- produced by FMI bearing FMI-003090</p> <p>16 Bates stamp. Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. This was produced by FMI in</p> <p>19 this litigation?</p> <p>20 A. Yes.</p> <p>21 Q. Sorry, I'm numbering something</p> <p>22 over here.</p> <p>23 If we start with the e-mail at</p> <p>24 the bottom, it's an announcement from Gene</p> <p>25 Gregory that the UEP board had finally passed</p>

<p style="text-align: right;">Page 202</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 a motion regarding molting and that producers</p> <p>3 must eliminate the use of feed withdrawal to</p> <p>4 induce a molt. Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. So was it your understanding</p> <p>7 that at least from the time period of 2000,</p> <p>8 when they issued their first guidelines,</p> <p>9 through 2005, through May of 2005, the UEP</p> <p>10 was continuing to research the alternatives</p> <p>11 to forced food elimination and molting?</p> <p>12 A. Yes.</p> <p>13 MR. DAVIS: Objection to form.</p> <p>14 THE WITNESS: Sorry. Yes, we</p> <p>15 believed they were continuing to look</p> <p>16 at that issue.</p> <p>17 BY MR. PATTON:</p> <p>18 Q. I'm sorry, that was a very bad</p> <p>19 question the way I asked it. But for almost</p> <p>20 a five-year period, the UEP, as you</p> <p>21 understood it, was researching molting</p> <p>22 through the use of food deprivation. Right?</p> <p>23 MR. DAVIS: Objection.</p> <p>24 THE WITNESS: It was our</p> <p>25 understanding they won't continued to</p>	<p style="text-align: right;">Page 204</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Mr. Gregory was making to Ms. Brown?</p> <p>3 A. Yes.</p> <p>4 Q. And it says, This group may be</p> <p>5 made up of producers that are egg breakers</p> <p>6 and provide process egg products. Their</p> <p>7 intent is to develop a program that they will</p> <p>8 implement only when their customer or</p> <p>9 customers want it.</p> <p>10 That's Mr. Gregory's</p> <p>11 interpretation of that group's intent as</p> <p>12 well. Right?</p> <p>13 A. Correct.</p> <p>14 Q. And then he says, in other</p> <p>15 words, humane guidelines from some hens --</p> <p>16 for some hens - inhumane guidelines for other</p> <p>17 hens. And then he says, this group will want</p> <p>18 to pick and choose from the UEP guidelines,</p> <p>19 that they can get what they want to meet and</p> <p>20 sell to their customers.</p> <p>21 That's Mr. Gregory's</p> <p>22 representation to the FMI again. Right?</p> <p>23 A. Yes.</p> <p>24 Q. So those are his words?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 203</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 look at alternatives for that, yes.</p> <p>3 BY MR. PATTON:</p> <p>4 Q. It wasn't until 2005 that they</p> <p>5 decided that they could pass a motion to say</p> <p>6 they didn't need to withdraw food. Right?</p> <p>7 MR. DAVIS: Objection.</p> <p>8 THE WITNESS: Yes, that's what</p> <p>9 they notified us.</p> <p>10 BY MR. PATTON:</p> <p>11 Q. Now, if you go down below, he</p> <p>12 says one more point that we would like to</p> <p>13 make you aware of and request for your</p> <p>14 consideration. So he's informing FMI of</p> <p>15 something and he's making another request.</p> <p>16 Right?</p> <p>17 A. Yes.</p> <p>18 Q. He says it has come to our</p> <p>19 attention that a small group (and yet large</p> <p>20 producers) that are not currently Animal Care</p> <p>21 Certified companies may be thinking of</p> <p>22 starting an animal welfare program of their</p> <p>23 own to compete with the UEP's Animal Care</p> <p>24 Certified Program.</p> <p>25 This was a representation that</p>	<p style="text-align: right;">Page 205</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. He saying, "Should this group</p> <p>3 seek to receive the endorsement of either FMI</p> <p>4 or NCCR, we would hope that you would respond</p> <p>5 by only endorsing UEP's guidelines..."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Now, this is, again, a request</p> <p>9 from Mr. Gregory being made to the FMI, not</p> <p>10 the FMI requesting information from the UEP.</p> <p>11 Right?</p> <p>12 A. Correct.</p> <p>13 Q. Karen responds, "Great news on</p> <p>14 the molting issue." And "We will revise our</p> <p>15 guideline status chart." Is that the chart</p> <p>16 that we had seen earlier today where you had</p> <p>17 pointed to differences that could then be</p> <p>18 moved?</p> <p>19 A. Yes.</p> <p>20 Q. So at least at this point -- at</p> <p>21 least at this point in time there was at</p> <p>22 least one less point of difference between</p> <p>23 the FMI's best practices and the UEP</p> <p>24 guidelines. Right?</p> <p>25 A. Correct.</p>

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<p style="text-align: right;">Page 206</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. And then she says, "On the</p> <p>3 second issue -- we have no intention to</p> <p>4 endorse a second set of guidelines for laying</p> <p>5 hens that are weaker than the UEP</p> <p>6 guidelines."</p> <p>7 Do you see that?</p> <p>8 A. Yes, I do.</p> <p>9 Q. Is that, in essence, the hope</p> <p>10 or the assurance that Mr. Gregory was asking</p> <p>11 for?</p> <p>12 MR. DAVIS: Objection.</p> <p>13 THE WITNESS: I take this to be</p> <p>14 Karen just reiterating what our</p> <p>15 position was on all of these commodity</p> <p>16 guidelines, and that is the ones that</p> <p>17 we were endorsing we felt represented</p> <p>18 best practices, and we didn't need</p> <p>19 multiple sets of best practices.</p> <p>20 BY MR. PATTON:</p> <p>21 Q. Well, my question, I'm sorry,</p> <p>22 was probably poorly worded.</p> <p>23 How could Karen or the FMI even</p> <p>24 consider endorsing a guideline or a practice</p> <p>25 if they hadn't seen it yet?</p>	<p style="text-align: right;">Page 208</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 had not seen and that hadn't been</p> <p>3 through that entire process.</p> <p>4 BY MR. PATTON:</p> <p>5 Q. Now, if someone like the head</p> <p>6 of the FMI -- the head of the UEP represented</p> <p>7 to you that this was a weaker program,</p> <p>8 wouldn't that get your attention a little</p> <p>9 bit?</p> <p>10 MR. DAVIS: Objection.</p> <p>11 THE WITNESS: I think what</p> <p>12 attention it would get is that there</p> <p>13 is no need for us to look at another</p> <p>14 guideline that's weaker because we've</p> <p>15 already identified best practices.</p> <p>16 BY MR. PATTON:</p> <p>17 Q. You spent a lot of time with</p> <p>18 scientific experts and others --</p> <p>19 A. Correct.</p> <p>20 Q. -- trying to go through this</p> <p>21 process?</p> <p>22 A. Right. We would not support</p> <p>23 anything less than that.</p> <p>24 Q. But if another program did come</p> <p>25 along, I mean things changed, right, and if</p>
<p style="text-align: right;">Page 207</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 MR. DAVIS: Objection.</p> <p>3 BY MR. PATTON:</p> <p>4 Q. Wouldn't it have been</p> <p>5 consistent with FMI's practice to at least</p> <p>6 look and see and receive a guideline and</p> <p>7 consider it?</p> <p>8 MR. DAVIS: Objection.</p> <p>9 THE WITNESS: If we had been</p> <p>10 amenable to looking at another</p> <p>11 guideline, it would have had to have</p> <p>12 gone through the same process that all</p> <p>13 the guidelines went through. That was</p> <p>14 rather time consuming and labor</p> <p>15 intensive. It would take a while to</p> <p>16 do that.</p> <p>17 BY MR. PATTON:</p> <p>18 Q. So is Karen saying we had no</p> <p>19 intention, could one of the interpretations</p> <p>20 be from FMI's perspective that we have no</p> <p>21 intention of endorsing a second set of</p> <p>22 guidelines that we haven't seen yet?</p> <p>23 MR. DAVIS: Objection.</p> <p>24 THE WITNESS: It would be true</p> <p>25 that we couldn't endorse anything we</p>	<p style="text-align: right;">Page 209</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 another program evolved and was better, would</p> <p>3 the FMI rule out considering it?</p> <p>4 A. We discussed that internally.</p> <p>5 If there was more than one guideline for a</p> <p>6 commodity. And at the time, quite honestly,</p> <p>7 we weren't faced with that and I don't think</p> <p>8 we made any finite decision that we would</p> <p>9 never do it. We just couldn't see where</p> <p>10 there was a need because we had already</p> <p>11 identified best practices.</p> <p>12 MR. PATTON: Let me mark</p> <p>13 Exhibit 23.</p> <p>14 - - -</p> <p>15 (Exhibit H-23, E-mail chain,</p> <p>16 Bates FMI-002651 - FMI-002652, was</p> <p>17 marked for identification.)</p> <p>18 - - -</p> <p>19 BY MR. PATTON:</p> <p>20 Q. Take a moment to look at that.</p> <p>21 Exhibit 23 is an e-mail</p> <p>22 exchange between Tim Hammonds, Al Pope, Karen</p> <p>23 Brown, dated June 27, 2005?</p> <p>24 A. Yes.</p> <p>25 Q. It bears Bates number</p>

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<p style="text-align: right;">Page 210</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 FMI-002651. And it also indicates that you</p> <p>3 received a copy of this from Karen on or</p> <p>4 about June 27, 2005. Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Remind me, who is Al Pope</p> <p>7 again?</p> <p>8 A. Al Pope is head of United Egg</p> <p>9 Producers.</p> <p>10 Q. And he's e-mailed Tim Hammonds,</p> <p>11 and he -- if we look at the second paragraph</p> <p>12 he says, "We have on good authority, that the</p> <p>13 Sparboe company will spearhead an effort to</p> <p>14 develop a competing program, of course</p> <p>15 without the 100% provision."</p> <p>16 I note that they have become</p> <p>17 associate members of FMI. We would</p> <p>18 respectfully request that FMI maintains its</p> <p>19 current position only supporting the UEP</p> <p>20 guidelines which were jointly developed with</p> <p>21 FMI.</p> <p>22 Do you see that?</p> <p>23 A. Yes, I do.</p> <p>24 Q. This is a request being made</p> <p>25 from the head of UEP to FMI, is it not?</p>	<p style="text-align: right;">Page 212</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 it.</p> <p>3 MR. DAVIS: Objection.</p> <p>4 BY MR. PATTON:</p> <p>5 Q. Right?</p> <p>6 MR. MCKENNEY: Objection.</p> <p>7 Leading.</p> <p>8 THE WITNESS: What I see here is</p> <p>9 Al wanting support for -- it's a bit</p> <p>10 confusing because he's referring to</p> <p>11 the program which he previously refers</p> <p>12 to as the Animal Care Certified</p> <p>13 Program. It is not the Animal Care</p> <p>14 Certified Program that we ever</p> <p>15 endorsed or supported, it was the</p> <p>16 guidelines themselves.</p> <p>17 BY MR. PATTON:</p> <p>18 Q. That's an important</p> <p>19 distinction. So he's now asking for</p> <p>20 continued support of something that you never</p> <p>21 supported in the first place. Is that what</p> <p>22 you're saying?</p> <p>23 MR. DAVIS: Objection.</p> <p>24 THE WITNESS: I think the way he</p> <p>25 has worded it, it leads to some</p>
<p style="text-align: right;">Page 211</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 MR. DAVIS: Objection.</p> <p>3 THE WITNESS: It is a request</p> <p>4 from Al Pope to FMI, yes.</p> <p>5 BY MR. PATTON:</p> <p>6 Q. Is this yet another example of</p> <p>7 the UEP reaching out and asking FMI for</p> <p>8 support?</p> <p>9 A. Yes, it is.</p> <p>10 Q. It says, not maintaining this</p> <p>11 position would contribute to the weakening</p> <p>12 and even destruction of our program, our</p> <p>13 program that has set the standards for all</p> <p>14 other animal agricultural commodities.</p> <p>15 Did I read that correctly?</p> <p>16 A. Yes.</p> <p>17 Q. These are Mr. Pope's</p> <p>18 representations to FMI, are they not?</p> <p>19 A. Yes.</p> <p>20 Q. Mr. Pope is explaining to the</p> <p>21 UEP what I would call a dark and stormy night</p> <p>22 here, that if these guidelines get traction,</p> <p>23 it's going to be a weakening and even a</p> <p>24 destruction of the UEP guidelines and all</p> <p>25 animal agricultural commodities as we know</p>	<p style="text-align: right;">Page 213</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 confusion as to whether he's asking</p> <p>3 for -- he does say only supporting the</p> <p>4 UEP guidelines, which we did support,</p> <p>5 but then he did use the word</p> <p>6 "program." And we didn't support the</p> <p>7 program. So it is a little confusing</p> <p>8 the way Al has worded it.</p> <p>9 BY MR. PATTON:</p> <p>10 Q. The program meaning the UEP's</p> <p>11 own --</p> <p>12 A. Certification program.</p> <p>13 MR. MCKENNEY: Objection.</p> <p>14 Leading.</p> <p>15 BY MR. PATTON:</p> <p>16 Q. When he understands -- when he</p> <p>17 says not maintaining this position would</p> <p>18 contribute to the weakening and destruction</p> <p>19 of our program, you view those as pretty dire</p> <p>20 words?</p> <p>21 MR. DAVIS: Objection.</p> <p>22 THE WITNESS: He does make it</p> <p>23 sound as if we don't support the</p> <p>24 guidelines, then their certification</p> <p>25 program will be weakened or lost.</p>

<p style="text-align: right;">Page 214</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. PATTON:</p> <p>3 Q. At any point in time in this</p> <p>4 2005 period or any time, was the FMI ever</p> <p>5 asking the UEP for their guidelines or for</p> <p>6 them to develop guidelines?</p> <p>7 A. I'm sorry, ask --</p> <p>8 Q. During this time period, the</p> <p>9 FMI wasn't saying, hey, we need you guys to</p> <p>10 develop guidelines?</p> <p>11 MR. DAVIS: Objection to the</p> <p>12 definition of this time period.</p> <p>13 THE WITNESS: We had from the</p> <p>14 beginning of our program all the way</p> <p>15 back to 2000, had asked to use the UEP</p> <p>16 guidelines as the basis for reviewing</p> <p>17 and eventually having a set of best</p> <p>18 practices we could endorse. We did</p> <p>19 not ask them to specifically write</p> <p>20 guidelines. We asked them to share</p> <p>21 the guidelines they already had with</p> <p>22 us and work with us on improving them.</p> <p>23 BY MR. PATTON:</p> <p>24 Q. That was a poorly worded</p> <p>25 question. What I'm trying to draw the</p>	<p style="text-align: right;">Page 216</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. In this letter where Mr. Pope</p> <p>3 is asking Tim to continue to support -- let</p> <p>4 me start that again.</p> <p>5 Tim Hammonds is -- start that.</p> <p>6 Al Pope is asking Mr. Hammonds</p> <p>7 to continue to provide support of the UEP</p> <p>8 guidelines. Is that right?</p> <p>9 A. Yes, he is asking for the</p> <p>10 support for the UEP guidelines, yes.</p> <p>11 Q. You draw the distinction</p> <p>12 between the fact that he may be confusing the</p> <p>13 program with the guidelines?</p> <p>14 MR. DAVIS: Objection.</p> <p>15 THE WITNESS: I think the way</p> <p>16 this e-mail is worded, there could be</p> <p>17 some confusion in using guidelines and</p> <p>18 programs as if they were the same.</p> <p>19 BY MR. PATTON:</p> <p>20 Q. Now, when Mr. Hammonds</p> <p>21 responds, he says, "Thanks for the heads up</p> <p>22 Al."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Does that indicate to you that</p>
<p style="text-align: right;">Page 215</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 distinction here that what I see it's always</p> <p>3 the FMI asking the UEP for support -- I'm</p> <p>4 sorry, it's always the UEP asking FMI for</p> <p>5 support. Right?</p> <p>6 MR. MCKENNEY: Objection.</p> <p>7 Leading.</p> <p>8 BY MR. PATTON:</p> <p>9 Q. The FMI never asked the UEP or</p> <p>10 required them to draft guidelines in the</p> <p>11 first place. Is that right?</p> <p>12 MR. DAVIS: Objection.</p> <p>13 Compound. Leading, and misstates her</p> <p>14 prior testimony.</p> <p>15 THE WITNESS: We -- the</p> <p>16 guidelines already existed. We had</p> <p>17 asked UEP to work with us using their</p> <p>18 guidelines as the basis for a new set</p> <p>19 of best practices.</p> <p>20 BY MR. PATTON:</p> <p>21 Q. The FMI never wrote these</p> <p>22 guidelines for the UEP?</p> <p>23 MR. DAVIS: Objection.</p> <p>24 THE WITNESS: We did not.</p> <p>25 BY MR. PATTON:</p>	<p style="text-align: right;">Page 217</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 basically Mr. Hammonds had no idea about what</p> <p>3 was in this e-mail until it was brought to</p> <p>4 his attention?</p> <p>5 MR. DAVIS: Objection.</p> <p>6 THE WITNESS: I would say that</p> <p>7 Mr. Hammonds was not aware of this</p> <p>8 until Al sent him an e-mail and</p> <p>9 explained it to him.</p> <p>10 BY MR. PATTON:</p> <p>11 Q. That's why he said "Thanks for</p> <p>12 the head up"?</p> <p>13 MR. DAVIS: Objection.</p> <p>14 THE WITNESS: Correct.</p> <p>15 BY MR. PATTON:</p> <p>16 Q. Now, when he said, "We will</p> <p>17 stick with you," does that indicate that the</p> <p>18 FMI is in some type of agreement with the UEP</p> <p>19 to support guidelines?</p> <p>20 MR. DAVIS: Objection.</p> <p>21 THE WITNESS: I take that to</p> <p>22 mean that Tim Hammonds was conveying</p> <p>23 to Al that we were going to continue</p> <p>24 to support and endorse the UEP</p> <p>25 guidelines that we had already</p>

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<p style="text-align: right;">Page 218</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 recognized.</p> <p>3 BY MR. PATTON:</p> <p>4 Q. Did it mean that Mr. Hammonds</p> <p>5 was going to support in any way the</p> <p>6 certification program?</p> <p>7 MS. KANTOR: Objection.</p> <p>8 THE WITNESS: I don't believe he</p> <p>9 would have implied that at all because</p> <p>10 Mr. Hammonds was very firm in his</p> <p>11 position that we would not endorse a</p> <p>12 certification program.</p> <p>13 BY MR. PATTON:</p> <p>14 Q. If someone were to interpret</p> <p>15 this document as evidence of a conspiracy</p> <p>16 between the FMI and UEP to promote</p> <p>17 guidelines, would you agree or disagree with</p> <p>18 that view?</p> <p>19 MR. DAVIS: Objection to form.</p> <p>20 THE WITNESS: Can you repeat the</p> <p>21 way you said it?</p> <p>22 BY MR. PATTON:</p> <p>23 Q. If someone were to interpret</p> <p>24 this document and Mr. Hammonds' response as</p> <p>25 evidence of a conspiracy between FMI and the</p>	<p style="text-align: right;">Page 220</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Program and its certifications, that at the</p> <p>3 same time it was instructing its members to</p> <p>4 engage in early molt program and hen disposal</p> <p>5 programs?</p> <p>6 MR. DAVIS: Objection.</p> <p>7 THE WITNESS: I'm going to have</p> <p>8 to have you repeat it.</p> <p>9 BY MR. PATTON:</p> <p>10 Q. Sure. Were you aware that at</p> <p>11 the same time that the UEP was promoting its</p> <p>12 Animal Welfare Guidelines, that it was</p> <p>13 instructing its members to accelerate molt</p> <p>14 and engage in early hen disposal?</p> <p>15 MR. DAVIS: Objection.</p> <p>16 THE WITNESS: I think I'm</p> <p>17 struggling with the question because</p> <p>18 of what you mean by "early molt." Our</p> <p>19 understanding was that UEP was</p> <p>20 conveying to its members their new</p> <p>21 recommendations on not using feed</p> <p>22 withdrawal. So they were encouraging</p> <p>23 their members to adopt the new and</p> <p>24 what we considered improved</p> <p>25 guidelines. But I know of no other</p>
<p style="text-align: right;">Page 219</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 UEP to promote and agree to UEP's Animal Care</p> <p>3 Certification Program, would you agree or</p> <p>4 disagree with that?</p> <p>5 MR. DAVIS: Objection.</p> <p>6 THE WITNESS: I would disagree</p> <p>7 because Mr. Hammonds would not have</p> <p>8 supported the certification program.</p> <p>9 BY MR. PATTON:</p> <p>10 Q. If someone were to hold this up</p> <p>11 in a court of law in front of a federal judge</p> <p>12 and say is the evidence of a conspiracy</p> <p>13 between FMI and the UEP to restrict supply of</p> <p>14 eggs in the United States, would you agree or</p> <p>15 disagree as a representative of FMI?</p> <p>16 MR. MCKENNEY: Objection to</p> <p>17 form.</p> <p>18 MR. DAVIS: Objection.</p> <p>19 THE WITNESS: I would disagree.</p> <p>20 BY MR. PATTON:</p> <p>21 Q. Let me ask you a few other</p> <p>22 questions and then I'm going to reserve my</p> <p>23 time for the end.</p> <p>24 Were you aware that at the same</p> <p>25 time the UEP was promoting its Animal Welfare</p>	<p style="text-align: right;">Page 221</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 information they might have shared</p> <p>3 with them on other accelerated type of</p> <p>4 molting.</p> <p>5 BY MR. PATTON:</p> <p>6 Q. Well, do you have any knowledge</p> <p>7 of a motion and an instruction passed</p> <p>8 internally within the UEP, for instance, in</p> <p>9 2002, instructing members to accelerate molt</p> <p>10 and engage in early hen disposal?</p> <p>11 MR. DAVIS: Objection.</p> <p>12 THE WITNESS: No, I don't know</p> <p>13 that.</p> <p>14 BY MR. PATTON:</p> <p>15 Q. Were you aware at any point in</p> <p>16 time in 2004 and 2005 that they were</p> <p>17 enlisting their members to accelerate 5</p> <p>18 percent of their flock into molt and to</p> <p>19 dispose of 5 percent of their hens?</p> <p>20 MR. DAVIS: Objection.</p> <p>21 THE WITNESS: We were not aware</p> <p>22 of that.</p> <p>23 BY MR. PATTON:</p> <p>24 Q. Were you aware that in 2000 the</p> <p>25 UEP and its members adopted a supply</p>

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<p style="text-align: right;">Page 222</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 adjustment program where they agreed to</p> <p>3 effectuate an immediate molt of 5 percent of</p> <p>4 their flocks and to eliminate 5 percent of</p> <p>5 their flocks?</p> <p>6 MR. DAVIS: Objection.</p> <p>7 THE WITNESS: No.</p> <p>8 BY MR. PATTON:</p> <p>9 Q. Are you aware that certain egg</p> <p>10 producers have sued plaintiffs in this case</p> <p>11 and have alleged that through the FMI these</p> <p>12 plaintiffs conspired and demanded that the</p> <p>13 UEP develop its guidelines?</p> <p>14 A. Say that again?</p> <p>15 Q. Are you aware that certain</p> <p>16 defendants in this case have sued some of my</p> <p>17 clients and some of the plaintiffs in this</p> <p>18 case?</p> <p>19 MR. HUTCHINSON: Objection to</p> <p>20 form.</p> <p>21 COURT REPORTER: Who is that,</p> <p>22 please?</p> <p>23 MR. HUTCHINSON: Troy Hutchinson.</p> <p>24 BY MR. PATTON:</p> <p>25 Q. Are you aware that certain egg</p>	<p style="text-align: right;">Page 224</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 undertook a coordinated campaign to oversee</p> <p>3 and regulate the egg industry. Is that true?</p> <p>4 A. No, it's not.</p> <p>5 MR. MCKENNEY: Objection to</p> <p>6 form.</p> <p>7 MR. HUTCHINSON: Objection to</p> <p>8 form.</p> <p>9 BY MR. PATTON:</p> <p>10 Q. It's alleged that the FMI</p> <p>11 requested that the UEP create and adopt its</p> <p>12 own animal welfare program and its certified</p> <p>13 program. Is that true?</p> <p>14 MR. MCKENNEY: Objection to</p> <p>15 form.</p> <p>16 THE WITNESS: That is not true.</p> <p>17 BY MR. PATTON:</p> <p>18 Q. It's alleged that the FMI</p> <p>19 demanded that the UEP shorten its phase-in</p> <p>20 period. Is that true?</p> <p>21 A. That is not true.</p> <p>22 Q. It's alleged that the FMI fully</p> <p>23 understood the importance of endorsing the</p> <p>24 certification program because the FMI knew</p> <p>25 that the certification program of the UEP was</p>
<p style="text-align: right;">Page 223</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 producers in this case have sued certain</p> <p>3 plaintiffs in this case and alleged that</p> <p>4 these plaintiffs, through the FMI, conspired</p> <p>5 and demanded that the UEP develop its Animal</p> <p>6 Welfare Guidelines?</p> <p>7 MR. MCKENNEY: Objection to</p> <p>8 form.</p> <p>9 MR. HUTCHINSON: Objection to</p> <p>10 form.</p> <p>11 THE WITNESS: I was aware, but</p> <p>12 probably not to that extent.</p> <p>13 BY MR. PATTON:</p> <p>14 Q. If -- is it true that the FMI</p> <p>15 and its members coordinated and conspired</p> <p>16 together to demand that the UEP create and</p> <p>17 adopt animal welfare guidelines?</p> <p>18 A. No, they did not.</p> <p>19 Q. Is it true that the FMI and</p> <p>20 certain of its members conspired together to</p> <p>21 demand that the UEP create its certification</p> <p>22 program?</p> <p>23 A. We did not.</p> <p>24 Q. It's alleged in this case by</p> <p>25 counterclaim defendants, that the FMI</p>	<p style="text-align: right;">Page 225</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 a supply restraint. Is that true?</p> <p>3 MR. MCKENNEY: Objection to</p> <p>4 form.</p> <p>5 MR. HUTCHINSON: Objection to</p> <p>6 form.</p> <p>7 THE WITNESS: That is not true.</p> <p>8 BY MR. PATTON:</p> <p>9 Q. Would the FMI have ever</p> <p>10 supported a price fixing conspiracy?</p> <p>11 A. No, they would not.</p> <p>12 Q. Would it ever have supported or</p> <p>13 agreed to a price fixing conspiracy entered</p> <p>14 into by the UEP producers?</p> <p>15 A. No, they would not.</p> <p>16 Q. Were you ever told that the UEP</p> <p>17 program was a hidden agenda for price fixing?</p> <p>18 MR. DAVIS: Objection.</p> <p>19 THE WITNESS: No.</p> <p>20 BY MR. PATTON:</p> <p>21 Q. Were you ever told that members</p> <p>22 of the UEP themselves regarded the UEP</p> <p>23 program as a supply restraint?</p> <p>24 MR. DAVIS: Objection.</p> <p>25 THE WITNESS: No.</p>

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<p style="text-align: right;">Page 226</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. PATTON:</p> <p>3 Q. Were you ever told that the UEP</p> <p>4 members believed that the guidelines were</p> <p>5 secretly designed to restrict supply and</p> <p>6 increase prices?</p> <p>7 MR. DAVIS: Objection.</p> <p>8 THE WITNESS: No.</p> <p>9 BY MR. PATTON:</p> <p>10 Q. Did the FMI ever conspire with</p> <p>11 any of its members to require the UEP to</p> <p>12 develop guidelines or certification programs?</p> <p>13 A. No.</p> <p>14 MR. MCKENNEY: Objection to</p> <p>15 form.</p> <p>16 MR. PATTON: Thank you. I have</p> <p>17 no further questions. I reserve some</p> <p>18 time and I think counsel for Kansas</p> <p>19 may have time at the end, too.</p> <p>20 Would you like to go off the</p> <p>21 record for a moment?</p> <p>22 VIDEOGRAPHER: Off the record.</p> <p>23 The time of 2:03.</p> <p>24 - - -</p> <p>25 (A recess was taken.)</p>	<p style="text-align: right;">Page 228</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 before yesterday about this deposition?</p> <p>3 A. Only to schedule a time to come</p> <p>4 and clear my schedule so I could fly in here.</p> <p>5 Q. How long yesterday did you</p> <p>6 speak with Mr. Green?</p> <p>7 A. A couple of hours. Maybe three</p> <p>8 hours.</p> <p>9 Q. Did Mr. Green show you any</p> <p>10 documents or send you any documents to review</p> <p>11 in advance of your deposition?</p> <p>12 A. I did ask Mr. Green if he would</p> <p>13 show me some documents as a reminder of</p> <p>14 things that were on the Web site or documents</p> <p>15 that I hadn't seen in ten years.</p> <p>16 Q. Approximately how many</p> <p>17 documents was that?</p> <p>18 A. 20 maybe.</p> <p>19 Q. Other than Mr. Green, have you</p> <p>20 spoken with anyone else at FMI in preparation</p> <p>21 for this deposition?</p> <p>22 A. No.</p> <p>23 Q. Have you spoken with any FMI</p> <p>24 members in preparation for this deposition?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 227</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 - - -</p> <p>3 VIDEOGRAPHER: Back on the video</p> <p>4 record. The time of 2:14.</p> <p>5 - - -</p> <p>6 EXAMINATION</p> <p>7 - - -</p> <p>8 BY MR. DAVIS:</p> <p>9 Q. Dr. Hollingsworth, good</p> <p>10 afternoon.</p> <p>11 A. Good afternoon.</p> <p>12 Q. My name is Evan Davis. I'm an</p> <p>13 attorney for United States Egg Producers and</p> <p>14 United States Egg Marketers.</p> <p>15 Did you prepare for your</p> <p>16 deposition today?</p> <p>17 A. I did look at some background</p> <p>18 materials from the office.</p> <p>19 Q. Did you speak with your</p> <p>20 attorney, Mr. Green?</p> <p>21 A. I met briefly with him on just</p> <p>22 protocol of how this deposition worked.</p> <p>23 Q. When was that?</p> <p>24 A. Yesterday.</p> <p>25 Q. Had you spoken with Mr. Green</p>	<p style="text-align: right;">Page 229</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Have you spoken with anyone</p> <p>3 else in preparation for this deposition?</p> <p>4 A. No.</p> <p>5 Q. Have you spoken with any FMI</p> <p>6 members about the pending litigation?</p> <p>7 A. No.</p> <p>8 Q. At any point in time?</p> <p>9 A. No.</p> <p>10 Q. Have you spoken with any other</p> <p>11 attorneys about this litigation or this</p> <p>12 deposition?</p> <p>13 A. No.</p> <p>14 Q. Are you aware that FMI has</p> <p>15 produced documents responsive to a subpoena</p> <p>16 that was issued in this litigation?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know how those documents</p> <p>19 were collected and then produced?</p> <p>20 A. I can assume that there was a</p> <p>21 request for them and they were provided and</p> <p>22 that's based on what I've seen here.</p> <p>23 Q. Do you know how that collection</p> <p>24 ensued?</p> <p>25 A. No.</p>

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<p style="text-align: right;">Page 230</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. The documents that FMI has</p> <p>3 produced, are those documents that FMI has</p> <p>4 kept in its ordinary course of business?</p> <p>5 A. Based on what I've seen, yes.</p> <p>6 Q. To the extent that you're</p> <p>7 aware, yes, they are?</p> <p>8 A. Yes.</p> <p>9 Q. And for those documents that</p> <p>10 FMI created, were those documents created as</p> <p>11 part of FMI's regular business practices?</p> <p>12 MR. WILDERS: Objection. Lacks</p> <p>13 foundation.</p> <p>14 THE WITNESS: Yes. If you mean</p> <p>15 are these the standard type of</p> <p>16 documents we would have created in</p> <p>17 development of a program or e-mails,</p> <p>18 yes.</p> <p>19 BY MR. DAVIS:</p> <p>20 Q. The documents that FMI has</p> <p>21 produced are documents that it created in the</p> <p>22 course of its business?</p> <p>23 A. Yes.</p> <p>24 Q. Now, did you personally collect</p> <p>25 any of your own documents?</p>	<p style="text-align: right;">Page 232</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 fluctuate, but it's generally been the same.</p> <p>3 Q. And it's always -- so it's</p> <p>4 always been around 75 percent of the retail</p> <p>5 food industry?</p> <p>6 A. I believe that's correct.</p> <p>7 Q. Are you aware of -- well,</p> <p>8 strike that.</p> <p>9 I'll name some member --</p> <p>10 specific entities for you.</p> <p>11 A. Okay.</p> <p>12 Q. And my question is whether or</p> <p>13 not -- my first question is whether or not</p> <p>14 these entities have been members of FMI from</p> <p>15 2000 through the present?</p> <p>16 A. Okay.</p> <p>17 Q. Winn-Dixie?</p> <p>18 A. Yes.</p> <p>19 Q. Albertsons?</p> <p>20 A. Yes. Albertsons has broken up</p> <p>21 and changed names, but all of those stores</p> <p>22 and those companies have continuously</p> <p>23 remained as members.</p> <p>24 Q. SuperValu?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 231</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Only to look on the Web site,</p> <p>3 FMI's Web site to see -- I knew in 2012, for</p> <p>4 example, they revised the policy. I just</p> <p>5 wanted to look and see what that change was,</p> <p>6 so I did that.</p> <p>7 Q. In the last several years, have</p> <p>8 you been asked to collect any documents so</p> <p>9 that FMI could produce them?</p> <p>10 A. No.</p> <p>11 Q. Dr. Hollingsworth, how many</p> <p>12 members does FMI have today?</p> <p>13 A. Approximately 1,500.</p> <p>14 Q. What percentage of the industry</p> <p>15 does that reflect?</p> <p>16 MR. PATTON: Object.</p> <p>17 THE WITNESS: I'd say at least</p> <p>18 75 percent of the retail food</p> <p>19 industry.</p> <p>20 BY MR. DAVIS:</p> <p>21 Q. Has that -- has FMI's</p> <p>22 membership remained constant since, say, 2000</p> <p>23 or has it increased or decreased?</p> <p>24 A. It pretty much stays constant.</p> <p>25 Some companies merge so the numbers could</p>	<p style="text-align: right;">Page 233</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Kroger?</p> <p>3 A. Yes.</p> <p>4 Q. Giant Eagle?</p> <p>5 A. Yes.</p> <p>6 Q. Safeway?</p> <p>7 A. Yes.</p> <p>8 Q. Walgreens?</p> <p>9 A. Walgreens is a newer member.</p> <p>10 They were not in 2000, but they are members</p> <p>11 now.</p> <p>12 Q. Do you recall approximately</p> <p>13 when they became a member?</p> <p>14 A. I'd say between maybe</p> <p>15 2003-2005, in that range.</p> <p>16 Q. They've been a member since</p> <p>17 that time?</p> <p>18 A. I believe so.</p> <p>19 Q. Hy-Vee?</p> <p>20 A. Yes.</p> <p>21 Q. Since 2000 again?</p> <p>22 A. Yes. Yes. Back to 2000.</p> <p>23 Q. Great Atlantic &amp; Pacific Tea</p> <p>24 Company, also known as A&amp;P?</p> <p>25 A. A&amp;P. They were in 2000. They</p>

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<p style="text-align: right;">Page 234</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 are no longer members. But they were back in</p> <p>3 2000.</p> <p>4 Q. Do you recall approximately</p> <p>5 when they dropped off?</p> <p>6 A. I would say -- boy, I'm</p> <p>7 guessing here, but around 2008 maybe.</p> <p>8 Q. So from 2000 till around 2008,</p> <p>9 A&amp;P was an FMI member?</p> <p>10 A. It could have been as early as</p> <p>11 2005, but it was mid 2000.</p> <p>12 Q. Company H.E. Butt or HEB?</p> <p>13 A. They were a member in 2000.</p> <p>14 They dropped their membership and then they</p> <p>15 rejoined.</p> <p>16 Q. So can you give me an</p> <p>17 approximation of what years that was?</p> <p>18 A. I'm afraid I just don't</p> <p>19 remember.</p> <p>20 Q. That's fine. Does FMI have</p> <p>21 documents that reflect its membership from</p> <p>22 year to year?</p> <p>23 A. Yes.</p> <p>24 Q. What are those documents?</p> <p>25 A. Basically we keep a roster of</p>	<p style="text-align: right;">Page 236</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. So has Meyer been a member</p> <p>3 since 2000?</p> <p>4 A. Yes.</p> <p>5 Q. Publix?</p> <p>6 A. Yes.</p> <p>7 Q. Roundy's?</p> <p>8 A. Yes.</p> <p>9 Q. C&amp;S Wholesale Grocers?</p> <p>10 A. Yes.</p> <p>11 Q. Stop &amp; Shop?</p> <p>12 A. Yes.</p> <p>13 Q. Giant?</p> <p>14 A. Yes.</p> <p>15 Q. Associated Wholesale Grocers or</p> <p>16 AWG?</p> <p>17 A. Yes.</p> <p>18 MR. WILDERS: Objection. Vague.</p> <p>19 If you want to me to explain, then are</p> <p>20 you asking the entire time?</p> <p>21 MR. DAVIS: No. I wasn't asking</p> <p>22 you to explain.</p> <p>23 BY MR. DAVIS:</p> <p>24 Q. Dr. Hollingsworth, has AWG been</p> <p>25 a member, an FMI member since 2000?</p>
<p style="text-align: right;">Page 235</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 members, of all of our members, and we could</p> <p>3 easily provide information on when somebody</p> <p>4 was a member and if they were not a member.</p> <p>5 Q. When you say that could be</p> <p>6 easily provided, is that maintained</p> <p>7 electronically?</p> <p>8 A. Yes.</p> <p>9 Q. To your knowledge, has that</p> <p>10 been provided to the parties in this</p> <p>11 litigation?</p> <p>12 A. My understanding is that</p> <p>13 information had been looked up by FMI to have</p> <p>14 that information available.</p> <p>15 Q. Who at FMI maintains that</p> <p>16 information?</p> <p>17 A. Our membership division.</p> <p>18 Q. Is there an individual who</p> <p>19 oversees that?</p> <p>20 A. The current person who does it,</p> <p>21 I believe his name is Matt Grizzard.</p> <p>22 Q. Go back to naming a few of</p> <p>23 these entities.</p> <p>24 A. I'll try to remember, this is</p> <p>25 ten years ago or more.</p>	<p style="text-align: right;">Page 237</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. That is -- to the best of my</p> <p>3 knowledge, they have been.</p> <p>4 Q. Wal-Mart?</p> <p>5 A. Yes.</p> <p>6 Q. Costco?</p> <p>7 A. No. Costco was a member and</p> <p>8 they dropped their membership. And, again, I</p> <p>9 would say that was in the early part of 2000,</p> <p>10 maybe 2003. Again, I just can't remember the</p> <p>11 exact year.</p> <p>12 Q. Sam's Club?</p> <p>13 A. Yes, they were members.</p> <p>14 Q. And have been since 2000?</p> <p>15 A. And have been since 2000.</p> <p>16 Q. Ahold USA?</p> <p>17 A. Yes. Ahold, yes.</p> <p>18 Q. Ahold. Whole Foods?</p> <p>19 A. They are not members.</p> <p>20 Q. Have they ever been members?</p> <p>21 A. To my knowledge, no. Not</p> <p>22 during the time that I was at FMI. They may</p> <p>23 have been at some time, but I don't remember</p> <p>24 them ever being members.</p> <p>25 Q. Kraft?</p>

60 (Pages 234 - 237)



<p style="text-align: right;">Page 238</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. They are an associate member.</p> <p>3 Q. What does that mean exactly?</p> <p>4 A. Our membership is retailers,</p> <p>5 food retailers, wholesalers and distributors.</p> <p>6 They are our primary members. We do have an</p> <p>7 associate member program. Associate members</p> <p>8 are organizations that provide either food</p> <p>9 products or services to the retail food</p> <p>10 industry.</p> <p>11 Q. Do they have the same rights</p> <p>12 as, quote/unquote, regular members?</p> <p>13 A. No. They are not -- for</p> <p>14 example, we don't lobby on their behalf.</p> <p>15 They are not represented by us. But as</p> <p>16 associate members, they are entitled to</p> <p>17 certain access to information, educational</p> <p>18 materials and those sorts of things.</p> <p>19 Q. Does FMI consider its</p> <p>20 association members' interests when</p> <p>21 advocating or making decisions?</p> <p>22 A. Our focus is primarily always</p> <p>23 on our primary members.</p> <p>24 Q. It's primarily on your primary</p> <p>25 members?</p>	<p style="text-align: right;">Page 240</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. A primary member?</p> <p>3 A. No. No. I'm sorry, they're an</p> <p>4 associate.</p> <p>5 Q. Kellogg?</p> <p>6 A. An associate member.</p> <p>7 Q. Nestle?</p> <p>8 A. Associate member.</p> <p>9 Q. Conopco?</p> <p>10 A. I don't think so, that doesn't</p> <p>11 ring a bell.</p> <p>12 Q. Sodexo?</p> <p>13 A. No.</p> <p>14 Q. Heinz?</p> <p>15 A. And I don't think Sodexo is an</p> <p>16 associate. They represent Marriott hotels</p> <p>17 and restaurants. I don't think they're a</p> <p>18 member at all.</p> <p>19 Q. Heinz?</p> <p>20 A. They were not a member.</p> <p>21 Q. Eby-Brown Company?</p> <p>22 A. Eby-Brown. It doesn't ring a</p> <p>23 bell.</p> <p>24 Q. Karetas Foods?</p> <p>25 A. Doesn't ring a bell.</p>
<p style="text-align: right;">Page 239</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. Is it exclusively on your</p> <p>4 primary members?</p> <p>5 A. Well, for example, if we were</p> <p>6 to put together a conference, we would take</p> <p>7 into consideration what our associate members</p> <p>8 might want to have in the form of like an</p> <p>9 education program. So we do ask for their</p> <p>10 input on certain things like conferences, but</p> <p>11 they would not be involved at all in things</p> <p>12 like policy.</p> <p>13 Q. So in developing the FMI's</p> <p>14 animal welfare policy, FMI considered the</p> <p>15 interest of its members. Right?</p> <p>16 A. Primary members, yes.</p> <p>17 Q. Considered the interest of its</p> <p>18 primarily members?</p> <p>19 A. Yes.</p> <p>20 Q. Did FMI consider the interest</p> <p>21 of its associate members?</p> <p>22 A. No.</p> <p>23 Q. Was General Mills an FMI</p> <p>24 member?</p> <p>25 A. Yes, they were, and still are.</p>	<p style="text-align: right;">Page 241</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Goldberg &amp; Solovy Foods?</p> <p>3 A. I don't believe so.</p> <p>4 Q. Nussbaum-SF, Incorporated?</p> <p>5 A. Don't believe so.</p> <p>6 Q. Wickson?</p> <p>7 A. Do not think so.</p> <p>8 Q. SensoryEffects Flavor Systems?</p> <p>9 A. I don't know. A company like</p> <p>10 that could be an associate member, but not</p> <p>11 that I'm aware of.</p> <p>12 Q. Approximately what percentage</p> <p>13 of FMI's members are primary members?</p> <p>14 A. Well, 100 percent of our</p> <p>15 members are our primary members. You mean --</p> <p>16 Q. So the number that you gave me</p> <p>17 at the beginning when I asked about how many</p> <p>18 members FMI has --</p> <p>19 A. 1,500, that is primary members.</p> <p>20 Those are our retail members, the 1,500.</p> <p>21 Q. Approximately how many</p> <p>22 associate members does FMI have?</p> <p>23 A. I honestly don't know.</p> <p>24 Q. Would you say it's more than</p> <p>25 1,500?</p>

<p style="text-align: right;">Page 242</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. No. I'd say it's less than</p> <p>3 that.</p> <p>4 Q. Four B Corporation?</p> <p>5 A. Yes, they are members. I don't</p> <p>6 know them by that name. I think they go by</p> <p>7 Ball Foods, but that would be Ball Foods.</p> <p>8 Q. Ball Foods Stores?</p> <p>9 A. Yes.</p> <p>10 Q. And they are an FMI member?</p> <p>11 A. They would be members from</p> <p>12 since 2000.</p> <p>13 Q. Somerset Industries?</p> <p>14 A. No.</p> <p>15 Q. Consentino Group or Consentino</p> <p>16 Enterprises?</p> <p>17 A. I don't know.</p> <p>18 Q. You don't know?</p> <p>19 A. I don't know.</p> <p>20 Q. Mid Am Food Enterprises?</p> <p>21 A. Yes, I believe they are</p> <p>22 associate members.</p> <p>23 Q. Cnw Foods?</p> <p>24 A. No.</p> <p>25 Q. Food 4 Less?</p>	<p style="text-align: right;">Page 244</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 or food products?</p> <p>3 A. Food, and it also would include</p> <p>4 other items that are considered typical</p> <p>5 retail same items like health and beauty</p> <p>6 products, cosmetics, cleaning products, those</p> <p>7 kinds of things.</p> <p>8 Q. So the larger member in term of</p> <p>9 its dollar sales, the more it pays in FMI</p> <p>10 dues?</p> <p>11 A. Correct.</p> <p>12 Q. Can you tell me who FMI's ten</p> <p>13 largest members are using that as a metric?</p> <p>14 A. I can tell you who is among the</p> <p>15 top members. I don't know if I could tell</p> <p>16 you who is exactly the top ten.</p> <p>17 Q. Sure.</p> <p>18 A. Among the largest members would</p> <p>19 be Wal-Mart, Safeway, Kroger, SuperValu, and</p> <p>20 I'll stop there because I know they are among</p> <p>21 the biggest.</p> <p>22 Q. Is Winn-Dixie among the bigger</p> <p>23 members?</p> <p>24 A. Winn-Dixie actually has been</p> <p>25 bought out by another company.</p>
<p style="text-align: right;">Page 243</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. I believe they are members. I</p> <p>3 believe they are part -- that's a subsidiary</p> <p>4 of a larger company, if I'm not mistaken. I</p> <p>5 believe they are members.</p> <p>6 Q. Do you know what company it's a</p> <p>7 subsidiary of?</p> <p>8 A. I would be guessing, so I'd</p> <p>9 rather not guess.</p> <p>10 Q. That's fine. Does FMI collect</p> <p>11 dues from its members?</p> <p>12 A. Yes.</p> <p>13 Q. How are these dues calculated?</p> <p>14 A. There is a scale, a sliding</p> <p>15 scale, and it is based on volume, sales</p> <p>16 volume.</p> <p>17 Q. In dollars?</p> <p>18 A. Yes.</p> <p>19 Q. Of all products?</p> <p>20 A. No. If there's like a store</p> <p>21 that is a super center that may sell, you</p> <p>22 know, hardware and furniture, we wouldn't</p> <p>23 include that in the calculation.</p> <p>24 Q. So are FMI's dues calculated</p> <p>25 based on each member's dollar sales of food</p>	<p style="text-align: right;">Page 245</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Which company?</p> <p>3 A. I believe they are now part or</p> <p>4 merged with Bi-Lo.</p> <p>5 Q. And are they -- is Bi-Lo an FMI</p> <p>6 member?</p> <p>7 A. Yes.</p> <p>8 Q. Is that one of FMI's larger</p> <p>9 members?</p> <p>10 A. I don't know if combined they</p> <p>11 have reached that status, I couldn't answer</p> <p>12 that.</p> <p>13 Q. So these are -- the four that</p> <p>14 you named are among the top ten you're</p> <p>15 confident?</p> <p>16 A. They are among the big ones.</p> <p>17 Q. How much do these biggest</p> <p>18 members pay annually in FMI dues?</p> <p>19 MR. PATTON: Object to the form.</p> <p>20 THE WITNESS: I don't have that</p> <p>21 information. It's available. I don't</p> <p>22 have it. I wouldn't know off the top</p> <p>23 of my head.</p> <p>24 BY MR. DAVIS:</p> <p>25 Q. But FMI knows how much they</p>

<p style="text-align: right;">Page 246</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 each pay in dues?</p> <p>3 A. Yes.</p> <p>4 Q. Does FMI have documents showing</p> <p>5 how much each of its members pay in dues?</p> <p>6 A. Yes.</p> <p>7 Q. Those are easily accessible</p> <p>8 information to FMI?</p> <p>9 A. They would be available, yes.</p> <p>10 Q. Does FMI have a Board of</p> <p>11 Directors?</p> <p>12 A. Yes, they do.</p> <p>13 Q. What's the board's role?</p> <p>14 A. The board's role is to review</p> <p>15 policy and to give guidance and direction to</p> <p>16 FMI. They also provide FMI with priorities</p> <p>17 and the things that they as retailers would</p> <p>18 like to see their association do on their</p> <p>19 behalf.</p> <p>20 Q. Are they responsible for</p> <p>21 managing the business of FMI?</p> <p>22 A. We do have a CEO and president</p> <p>23 who actually oversees the day-to-day</p> <p>24 operations of the organization of FMI, but</p> <p>25 they do, through committees, for example,</p>	<p style="text-align: right;">Page 248</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Members are nominated for</p> <p>3 consideration and the board votes on them.</p> <p>4 Q. The board votes on who to elect</p> <p>5 to its own board?</p> <p>6 A. Yes.</p> <p>7 Q. Does each board member have one</p> <p>8 vote?</p> <p>9 A. I believe so.</p> <p>10 Q. Are officers of the board</p> <p>11 elected?</p> <p>12 A. Yes, they are. There is a</p> <p>13 process where, I believe, they are nominated</p> <p>14 and then they're elected. And those officers</p> <p>15 make up the Executive Committee which is a</p> <p>16 subset of the board. And there's usually</p> <p>17 about 20 people on the Executive Committee.</p> <p>18 Q. Is the Executive Committee</p> <p>19 elected by the board or by the membership?</p> <p>20 A. By the board.</p> <p>21 MR. GREEN: Can I interrupt?</p> <p>22 Can I get a minute with the witness?</p> <p>23 MR. DAVIS: Certainly. Should</p> <p>24 we go off the record?</p> <p>25 VIDEOGRAPHER: Going off the</p>
<p style="text-align: right;">Page 247</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 there's a finance committee where they are</p> <p>3 responsible for the performance of FMI, its</p> <p>4 employees and its functioning, but in a board</p> <p>5 oversight capacity. The president and CEO</p> <p>6 run the day-to-day operations.</p> <p>7 Q. Does the president and CEO take</p> <p>8 direction from the board?</p> <p>9 A. Yes.</p> <p>10 Q. And the board is representative</p> <p>11 of the interest of FMI's members?</p> <p>12 A. Yes. It's a rather large</p> <p>13 board. It has about 80 members and they are</p> <p>14 diverse and representative across the board</p> <p>15 of the industry.</p> <p>16 Q. Is the board elected?</p> <p>17 A. The board is and the</p> <p>18 membership -- everyone is elected for either</p> <p>19 a two- or three-year term, and those</p> <p>20 positions rotate, so at any given time, like</p> <p>21 a portion of the board leaves, new members</p> <p>22 come on. Board members can recommend other</p> <p>23 CEOs to come on. The board is primary made</p> <p>24 up of CEOs.</p> <p>25 Q. By whom is the board elected?</p>	<p style="text-align: right;">Page 249</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 record. The time of 2:32.</p> <p>3 - - -</p> <p>4 (A recess was taken.)</p> <p>5 - - -</p> <p>6 VIDEOGRAPHER: Back on the</p> <p>7 record at 2:32.</p> <p>8 BY MR. DAVIS:</p> <p>9 Q. Dr. Hollingsworth, would you</p> <p>10 like to clarify any of your answers?</p> <p>11 A. Yes, I would like to correct a</p> <p>12 statement that I made. It is, in fact, the</p> <p>13 membership who elects the members of the</p> <p>14 board. They are asked to vote. So it is a</p> <p>15 membership election process.</p> <p>16 Q. Does each member have one vote</p> <p>17 in that process?</p> <p>18 A. Yes, I believe so.</p> <p>19 Q. Do larger members or members</p> <p>20 that pay more in dues have any more of a say</p> <p>21 or more of a vote in that process than</p> <p>22 others?</p> <p>23 A. I don't believe so.</p> <p>24 Q. When -- is that true for all</p> <p>25 issues in which members have a vote, that</p>

<p style="text-align: right;">Page 250</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 each member has one equal vote?</p> <p>3 A. I believe so.</p> <p>4 Q. Does FMI have bylaws?</p> <p>5 A. Yes, we do.</p> <p>6 Q. Are those kept in some written</p> <p>7 form?</p> <p>8 A. Yes, they are.</p> <p>9 Q. Do you know if those have been</p> <p>10 produced to the parties in this litigation?</p> <p>11 A. I don't know that.</p> <p>12 Q. If the parties were to request</p> <p>13 them, is that something that could be easily</p> <p>14 found and made available?</p> <p>15 A. Yes.</p> <p>16 Q. Does FMI keep a list of its</p> <p>17 directors, its board members?</p> <p>18 A. Yes.</p> <p>19 Q. And that's true over time?</p> <p>20 A. Yes.</p> <p>21 Q. Are those lists updated</p> <p>22 annually or as the board changes?</p> <p>23 A. Yes, every year they are</p> <p>24 updated.</p> <p>25 Q. Could those historical lists be</p>	<p style="text-align: right;">Page 252</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 want to bring to the board for discussion or</p> <p>3 decision.</p> <p>4 Q. How often does that -- do</p> <p>5 members of the Executive Committee change?</p> <p>6 A. I'm not sure. I want to say</p> <p>7 every year, but I can't verify that.</p> <p>8 Q. Does FMI have records of who</p> <p>9 has served on the Executive Committee?</p> <p>10 A. Yes.</p> <p>11 Q. That's true going back to at</p> <p>12 least 2000?</p> <p>13 A. Yes.</p> <p>14 Q. Are those records something</p> <p>15 that could easily be obtained and produced?</p> <p>16 A. Yes, they could.</p> <p>17 Q. Do you know sitting here today</p> <p>18 who has served on the Executive Committee?</p> <p>19 A. Since 2000?</p> <p>20 Q. Yes.</p> <p>21 A. I wouldn't be able to repeat</p> <p>22 all those names off the top of my head, no.</p> <p>23 Q. Have CEOs of large food</p> <p>24 retailers sat on the Executive Committee?</p> <p>25 MR. PATTON: Object to the form.</p>
<p style="text-align: right;">Page 251</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 easily located by FMI?</p> <p>3 A. Yes.</p> <p>4 Q. Does the board appoint</p> <p>5 committees?</p> <p>6 A. There are different types of</p> <p>7 committees within FMI. Some of them are</p> <p>8 board committees. Others are what I'll call</p> <p>9 operational committees that are internal</p> <p>10 within the FMI staff, but then there are also</p> <p>11 board -- there are board level committees,</p> <p>12 committees that report to the board.</p> <p>13 Q. So the Executive Committee is,</p> <p>14 you said, named by the board or elected by</p> <p>15 the board. Is that right?</p> <p>16 A. I believe that's correct.</p> <p>17 Q. And what is the role of the</p> <p>18 Executive Committee?</p> <p>19 A. The Executive Committee also --</p> <p>20 first of all, they are the officers, so they</p> <p>21 include the chairman of the board, the</p> <p>22 previous past chair, the treasurer,</p> <p>23 secretary, those positions. And the</p> <p>24 Executive Committee will meet to further</p> <p>25 refine an issue or a question that they might</p>	<p style="text-align: right;">Page 253</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 THE WITNESS: CEOs of large</p> <p>3 companies, small companies and even</p> <p>4 independent operators have been on</p> <p>5 that committee.</p> <p>6 BY MR. DAVIS:</p> <p>7 Q. Has anyone from Kroger sat on</p> <p>8 the Executive Committee?</p> <p>9 A. Before I answer that, I would</p> <p>10 want to actually look at the list to confirm.</p> <p>11 Q. You're not sure?</p> <p>12 A. I'm not sure.</p> <p>13 Q. Safeway?</p> <p>14 MR. PATTON: Object to the form.</p> <p>15 THE WITNESS: Again, I'm not</p> <p>16 sure.</p> <p>17 BY MR. DAVIS:</p> <p>18 Q. Has anyone from SuperValu sat</p> <p>19 on the Executive Committee?</p> <p>20 A. I'm not sure.</p> <p>21 Q. Has anyone from Winn-Dixie?</p> <p>22 A. I'm not sure.</p> <p>23 Q. So you would rely on the</p> <p>24 documents that FMI has --</p> <p>25 A. Exactly.</p>

<p style="text-align: right;">Page 254</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. -- to answer those questions?</p> <p>3 A. Yes.</p> <p>4 Q. You said FMI has staff or</p> <p>5 employees?</p> <p>6 A. Yes.</p> <p>7 Q. Approximately how many?</p> <p>8 A. Today or are we talking in the</p> <p>9 past? It's fluctuated over the years.</p> <p>10 Q. Let's -- from 2000 through</p> <p>11 today what is sort of the low and the high</p> <p>12 numbers?</p> <p>13 A. I would say a low of maybe 50</p> <p>14 to 60 and a high of 100.</p> <p>15 Q. What's the role of staff</p> <p>16 vis-à-vis the membership or more specifically</p> <p>17 the Board of Directors?</p> <p>18 MR. PATTON: Object to the form.</p> <p>19 THE WITNESS: The role -- I'm</p> <p>20 sorry, the role -- can you just repeat</p> <p>21 the question?</p> <p>22 BY MR. DAVIS:</p> <p>23 Q. Sure. You testified that staff</p> <p>24 sort of takes its direction from the</p> <p>25 membership and from the board.</p>	<p style="text-align: right;">Page 256</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. And you serve the interest of</p> <p>3 your members?</p> <p>4 A. Yes.</p> <p>5 Q. So staff gauges what the</p> <p>6 interest of its members are in ways such as</p> <p>7 through its interactions with the Board of</p> <p>8 Directors. Is that one?</p> <p>9 MR. PATTON: Object to the form.</p> <p>10 THE WITNESS: With the Board of</p> <p>11 Directors and with committees and with</p> <p>12 direct one-on-one member interaction.</p> <p>13 BY MR. DAVIS:</p> <p>14 Q. So those would all be examples</p> <p>15 of ways FMI staff gauges the interest of its</p> <p>16 members?</p> <p>17 A. Yes.</p> <p>18 Q. And then acts upon those</p> <p>19 interests to try to serve them and further</p> <p>20 them?</p> <p>21 A. Yes.</p> <p>22 Q. As an industry trade</p> <p>23 association, what is FMI's function?</p> <p>24 A. Again, to be an advocacy</p> <p>25 organization for our members, we provide</p>
<p style="text-align: right;">Page 255</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. How does staff do that</p> <p>4 generally?</p> <p>5 MR. WILDERS: Objection. Beyond</p> <p>6 the scope of the deposition notice.</p> <p>7 THE WITNESS: One of the ways</p> <p>8 that the FMI staff operates is through</p> <p>9 first we have divisions, so there's</p> <p>10 communications in media, food safety,</p> <p>11 government relations. And within</p> <p>12 those groups there are committees. We</p> <p>13 do have a lot of committees that</p> <p>14 include membership. The members</p> <p>15 belong to the committee and then FMI</p> <p>16 staff participate with that committee</p> <p>17 to get direction from them and also to</p> <p>18 share ideas and information with those</p> <p>19 committees.</p> <p>20 BY MR. DAVIS:</p> <p>21 Q. So you said FMI's staff's goal</p> <p>22 is to act on behalf of its membership.</p> <p>23 Right?</p> <p>24 A. Yes, we're an advocacy type of</p> <p>25 trade association.</p>	<p style="text-align: right;">Page 257</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 research, education, food support in the</p> <p>3 areas of food safety. We lobby on their</p> <p>4 behalf. We assist them with understanding,</p> <p>5 interpreting regulations, provide them with</p> <p>6 information such as consumer trends, new</p> <p>7 research on retail markets and marketing</p> <p>8 issues and keep them posted on general</p> <p>9 information of interest from consumers as far</p> <p>10 as what consumers are buying and shopping</p> <p>11 for. Those kinds of thing.</p> <p>12 Q. Does FMI consider industry</p> <p>13 collaboration to be an area in which it</p> <p>14 supports its membership?</p> <p>15 MR. WILDERS: Objection. Form.</p> <p>16 THE WITNESS: When you say</p> <p>17 "industry," I'm not sure if you mean</p> <p>18 retailer to retailer or the food</p> <p>19 industry as a whole.</p> <p>20 BY MR. DAVIS:</p> <p>21 Q. Well, either. To your</p> <p>22 understanding, does FMI serve either of those</p> <p>23 interests?</p> <p>24 A. Yes, we do.</p> <p>25 Q. How so?</p>

65 (Pages 254 - 257)

<p style="text-align: right;">Page 258</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. As far as collaboration, we as</p> <p>3 a trade association do work and deal with</p> <p>4 other sister trade associations I'll call</p> <p>5 them, for lack of a better name, on areas of</p> <p>6 common interest. And we also -- when you say</p> <p>7 industry to industry, we also deal with our</p> <p>8 associate members who, of course, represent</p> <p>9 suppliers and bulk foods and service. So we</p> <p>10 interact with associate members, too.</p> <p>11 Q. Now, in the course of your</p> <p>12 personal employment at FMI, did you have</p> <p>13 contact with FMI's members?</p> <p>14 A. Yes.</p> <p>15 Q. Fairly frequent contact with</p> <p>16 FMI's members?</p> <p>17 A. Yes.</p> <p>18 Q. On what sorts of topics?</p> <p>19 A. Well, my primary interaction</p> <p>20 was on food safety, that was the area that I</p> <p>21 was responsible for. But we also dealt with</p> <p>22 regulatory issues. We would deal with</p> <p>23 communication issues, education issues,</p> <p>24 training of store employees, those sorts of</p> <p>25 things.</p>	<p style="text-align: right;">Page 260</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 the extent that I did not work in a</p> <p>3 retail store for a retail company.</p> <p>4 But I had a general understanding of</p> <p>5 the different people in different</p> <p>6 departments and how they interacted</p> <p>7 with FMI.</p> <p>8 BY MR. DAVIS:</p> <p>9 Q. You said you understood their</p> <p>10 views on animal welfare. Correct?</p> <p>11 A. Yes.</p> <p>12 Q. You understand -- did you</p> <p>13 understand their -- the concerns that they</p> <p>14 had?</p> <p>15 A. Yes.</p> <p>16 MR. WILDERS: Objection.</p> <p>17 THE WITNESS: They would express</p> <p>18 those concerns to us.</p> <p>19 BY MR. DAVIS:</p> <p>20 Q. Did you understand what the</p> <p>21 basis of those concerns was through your</p> <p>22 conversations with them?</p> <p>23 A. I believe so, yes.</p> <p>24 Q. Did you understand the steps</p> <p>25 that they desired in order to address those</p>
<p style="text-align: right;">Page 259</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. And I think this morning</p> <p>3 certainly made clear you had substantial</p> <p>4 interaction with members on issues related to</p> <p>5 animal welfare?</p> <p>6 A. Yes.</p> <p>7 Q. Did you come to know your</p> <p>8 members' views on issues like animal welfare</p> <p>9 fairly well?</p> <p>10 MR. WILDERS: Objection.</p> <p>11 THE WITNESS: I think as a whole</p> <p>12 what we understood was what our</p> <p>13 members were asking FMI to do for them</p> <p>14 on their behalf in the area of animal</p> <p>15 welfare.</p> <p>16 BY MR. DAVIS:</p> <p>17 Q. Did you understand why it was</p> <p>18 that members were asking FMI to do that?</p> <p>19 A. Yes.</p> <p>20 Q. Do you feel like you have a</p> <p>21 fairly solid understanding of FMI members'</p> <p>22 business practices and how their businesses</p> <p>23 operate?</p> <p>24 MR. PATTON: Object to the form.</p> <p>25 THE WITNESS: I would say not to</p>	<p style="text-align: right;">Page 261</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 concerns?</p> <p>3 MR. PATTON: Object to the form.</p> <p>4 Vague.</p> <p>5 MR. WILDERS: Outside the</p> <p>6 deposition notice.</p> <p>7 THE WITNESS: I think that was a</p> <p>8 mutual kind of discussion where we</p> <p>9 would propose ideas to them and then</p> <p>10 they would also share thoughts with</p> <p>11 us. So it was more of a discussion,</p> <p>12 not a you must do this or we will do</p> <p>13 this.</p> <p>14 BY MR. DAVIS:</p> <p>15 Q. Was this one discussion or was</p> <p>16 this a series of discussions?</p> <p>17 A. This would be a series.</p> <p>18 Q. Over a fairly extensive period</p> <p>19 of time?</p> <p>20 A. Yes.</p> <p>21 Q. Were there any board members</p> <p>22 who you would say were sort of specifically</p> <p>23 interested or involved in animal welfare</p> <p>24 issues?</p> <p>25 A. Initially, yes. In 2000, there</p>

<p style="text-align: right;">Page 262</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 was a small number, five of them, who</p> <p>3 particularly --</p> <p>4 MR. GREEN: The question was</p> <p>5 board members.</p> <p>6 THE WITNESS: I'm sorry?</p> <p>7 MR. GREEN: Board members.</p> <p>8 THE WITNESS: Oh, board members.</p> <p>9 I'm sorry. I would not say board</p> <p>10 members, no. Companies, but not board</p> <p>11 members. I apologize.</p> <p>12 BY MR. DAVIS:</p> <p>13 Q. No, that's fine. We'll talk</p> <p>14 about those five companies in just a moment.</p> <p>15 A. Okay.</p> <p>16 Q. So we talked about in 2000 FMI</p> <p>17 undertook an animal welfare initiative, so to</p> <p>18 speak. Is that fair? Strike the question.</p> <p>19 I'll hand you what's been</p> <p>20 marked as Exhibit 24.</p> <p>21 - - -</p> <p>22 (Exhibit H-24, The Food</p> <p>23 Marketing Institute and the National</p> <p>24 Council of Chain Restaurants: animal</p> <p>25 welfare and the retail food industry</p>	<p style="text-align: right;">Page 264</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. Prior to its publication, did</p> <p>4 you -- you said you and Ms. Brown wrote this</p> <p>5 document?</p> <p>6 A. Yes.</p> <p>7 Q. You then reviewed this document</p> <p>8 and ensured that it's accurate?</p> <p>9 A. Yes.</p> <p>10 Q. We'll walk through this a</p> <p>11 little bit, but generally is what you write</p> <p>12 in this document based on what we just</p> <p>13 discussed, which is your knowledge of FMI</p> <p>14 members' views on animal welfare?</p> <p>15 MR. WILDERS: Objection. Vague</p> <p>16 and ambiguous as to members.</p> <p>17 BY MR. DAVIS:</p> <p>18 Q. Do you understand the question?</p> <p>19 A. Perhaps not the way it was</p> <p>20 worded, no.</p> <p>21 Q. So you -- what you write in</p> <p>22 this article, is this in part, at least,</p> <p>23 based on your knowledge of FMI's members'</p> <p>24 views about animal welfare?</p> <p>25 MR. WILDERS: Objection to the</p>
<p style="text-align: right;">Page 263</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 in the United States of America paper,</p> <p>3 was marked for identification.)</p> <p>4 - - -</p> <p>5 BY MR. DAVIS:</p> <p>6 Q. Dr. Hollingsworth, do you</p> <p>7 recognize Exhibit 24?</p> <p>8 A. Yes, I do.</p> <p>9 Q. What is this document?</p> <p>10 A. This is a paper that was</p> <p>11 written by myself and Karen Brown as part of</p> <p>12 an invitation to present FMI's development of</p> <p>13 animal welfare in the retail industry. It</p> <p>14 was part of a publication published by the</p> <p>15 Office of International Epizootics, or OIE,</p> <p>16 which is an international organization that</p> <p>17 -- for an easier way to understand it, it is</p> <p>18 sort of the animal branch of the World Health</p> <p>19 Organization.</p> <p>20 Q. And you said this was published</p> <p>21 by that organization?</p> <p>22 A. I believe they did put it in</p> <p>23 one of their reviews.</p> <p>24 Q. Is this at the top right-hand</p> <p>25 corner a citation to that publication?</p>	<p style="text-align: right;">Page 265</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 word "members."</p> <p>3 THE WITNESS: I don't believe</p> <p>4 this document presents and represents</p> <p>5 individual views. It was a summary of</p> <p>6 the process that we took to address</p> <p>7 animal welfare concerns and how they</p> <p>8 could impact the retail industry.</p> <p>9 BY MR. DAVIS:</p> <p>10 Q. Sure. And that process was</p> <p>11 based on the interests of FMI's members as we</p> <p>12 talked about. Correct?</p> <p>13 MR. WILDERS: Same objection.</p> <p>14 THE WITNESS: It was based on</p> <p>15 the members' request to FMI to help</p> <p>16 them address the growing concerns</p> <p>17 about animal welfare.</p> <p>18 BY MR. DAVIS:</p> <p>19 Q. Turning to the document, the</p> <p>20 first page, and the last full paragraph that</p> <p>21 starts "In 2000..."</p> <p>22 A. Yes.</p> <p>23 Q. "In 2000, animal rights</p> <p>24 organizations began to demand that individual</p> <p>25 restaurant chain companies force their</p>



<p style="text-align: right;">Page 266</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 suppliers to follow specific animal welfare</p> <p>3 guidelines developed by activist</p> <p>4 organizations. The demands by the activists</p> <p>5 were followed by 'campaigns' that publicly</p> <p>6 portrayed the targeted companies as</p> <p>7 supporters of animal abuse, pain and</p> <p>8 suffering in food production agriculture. In</p> <p>9 an effort to respond in a manner that would</p> <p>10 demonstrate to their restaurant customers</p> <p>11 their concerns for animal welfare, several</p> <p>12 chain restaurant companies began to develop</p> <p>13 their own animal welfare guidelines and</p> <p>14 programmes. These initial efforts resulted</p> <p>15 in chain restaurant suppliers developing</p> <p>16 different, customized, and sometimes</p> <p>17 conflicting, animal welfare requirements.</p> <p>18 Some of these requirements were based on the</p> <p>19 demands of activist groups with various</p> <p>20 motivations, including those seeking the</p> <p>21 total elimination of animal protein as a food</p> <p>22 source."</p> <p>23 I'll stop there for a second.</p> <p>24 Do you agree with what you wrote?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 268</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 companies (Ahold...; Albertsons...; The</p> <p>3 Kroger Co.; Safeway, Inc. and Wal-Mart</p> <p>4 Stores, Inc.) to develop a voluntary policy</p> <p>5 and programme to address animal welfare that</p> <p>6 the entire supermarket industry could</p> <p>7 embrace."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Are those the five members that</p> <p>11 you referred to earlier?</p> <p>12 A. Yes, they are.</p> <p>13 Q. Those members affirmatively</p> <p>14 came to FMI and asked FMI to develop a</p> <p>15 voluntary policy and program to address</p> <p>16 animal welfare that the entire supermarket</p> <p>17 industry could embrace?</p> <p>18 MR. PATTON: Object to form.</p> <p>19 THE WITNESS: I don't believe</p> <p>20 they may have said those exact words,</p> <p>21 verbatim all of them the identical</p> <p>22 words, but in essence, that is what</p> <p>23 they came and told us their concern</p> <p>24 was, and that they needed our help and</p> <p>25 support.</p>
<p style="text-align: right;">Page 267</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. You go on "Believing their</p> <p>3 tactics for achieving success, the activists</p> <p>4 began to approach supermarket chains in the</p> <p>5 USA, making similar demands."</p> <p>6 Is that accurate as well?</p> <p>7 A. Yes.</p> <p>8 Q. And those supermarket chains</p> <p>9 that were approached by activists, those are</p> <p>10 by and large FMI members?</p> <p>11 MR. PATTON: Object to the form.</p> <p>12 THE WITNESS: Yes.</p> <p>13 BY MR. DAVIS:</p> <p>14 Q. Are those by and large FMI</p> <p>15 members?</p> <p>16 A. Yes, they are.</p> <p>17 Q. Any FMI members in particular</p> <p>18 that you can recall?</p> <p>19 A. They would have been among the</p> <p>20 five FMI members in 2000 who independently</p> <p>21 had contacted us and said they had growing</p> <p>22 concerns about animal welfare issues.</p> <p>23 Q. So we can move on to the next</p> <p>24 paragraph where it says that "...late in</p> <p>25 2000,... (FMI) was asked by five member</p>	<p style="text-align: right;">Page 269</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. DAVIS:</p> <p>3 Q. And that's how you would</p> <p>4 characterize their behavior at that time?</p> <p>5 A. Yes.</p> <p>6 Q. And that's accurate?</p> <p>7 A. Yes.</p> <p>8 Q. Do you have an understanding as</p> <p>9 to why they asked FMI to take this action?</p> <p>10 A. In large part because as you</p> <p>11 previously read in the previous paragraph,</p> <p>12 they did not think that it was wise for</p> <p>13 organizations to independently start</p> <p>14 establishing independent standards that would</p> <p>15 not -- probably would not be scientifically</p> <p>16 supported.</p> <p>17 Q. They thought it was a bad idea</p> <p>18 for individual retail establishments to</p> <p>19 develop their own independent animal welfare</p> <p>20 guidelines?</p> <p>21 A. These five companies expressed</p> <p>22 that concern, yes.</p> <p>23 Q. I'll continue on in the</p> <p>24 article, you say, "They reason that an</p> <p>25 industry approach would be more efficient,</p>

<p style="text-align: right;">Page 270</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 allow the pooling of resources, and provide</p> <p>3 an incentive for the supplier community to</p> <p>4 work with their supermarket customers to</p> <p>5 develop an effective animal welfare</p> <p>6 programme." Is that accurate?</p> <p>7 A. Yes, it is.</p> <p>8 Q. So is that a reason why these</p> <p>9 members wanted an industry-wide approach to</p> <p>10 animal welfare?</p> <p>11 A. Yes, that was among the</p> <p>12 reasons.</p> <p>13 Q. It goes on to say that "The</p> <p>14 goal was to develop an animal welfare</p> <p>15 programme that would be science-based, free</p> <p>16 of direct external pressure, and based on a</p> <p>17 cooperative approach among retailers and</p> <p>18 suppliers."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Is that accurate?</p> <p>22 A. Yes, it is.</p> <p>23 Q. And to the last part, "...based</p> <p>24 on a cooperative approach among retailers and</p> <p>25 suppliers," is that, in fact, what FMI then</p>	<p style="text-align: right;">Page 272</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. And FMI's members agreed with</p> <p>3 that view by and large?</p> <p>4 MR. WILDERS: Objection. Calls</p> <p>5 for speculation. Vague and ambiguous.</p> <p>6 BY MR. DAVIS:</p> <p>7 Q. Did other members -- did other</p> <p>8 FMI members express an agreement with that</p> <p>9 view?</p> <p>10 A. Others members did.</p> <p>11 Q. Several other members?</p> <p>12 A. Yes.</p> <p>13 Q. Some of which were large retail</p> <p>14 food establishments. Right?</p> <p>15 A. Yes.</p> <p>16 Q. Why was it important that the</p> <p>17 Animal Welfare Program be one that the entire</p> <p>18 supermarket industry could embrace?</p> <p>19 MR. PATTON: Object to the form.</p> <p>20 THE WITNESS: What we wanted to</p> <p>21 make available to our members was a</p> <p>22 program that anyone could take avail</p> <p>23 of if they so choose. So we wanted to</p> <p>24 make it universal enough that any</p> <p>25 retailer could use the program or be a</p>
<p style="text-align: right;">Page 271</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 proceeded to undertake?</p> <p>3 A. Yes.</p> <p>4 Q. Did FMI's other members support</p> <p>5 this effort?</p> <p>6 MR. WILDERS: Objection. Vague.</p> <p>7 Ambiguous.</p> <p>8 THE WITNESS: As we continued to</p> <p>9 pursue looking at this, we did have</p> <p>10 more and more members contact us and</p> <p>11 tell us that they were also interested</p> <p>12 in this and wanted to be kept apprise</p> <p>13 of our progress and what we were</p> <p>14 doing.</p> <p>15 BY MR. DAVIS:</p> <p>16 Q. Does FMI undertake this effort</p> <p>17 because it thought it was in the interest of</p> <p>18 its members generally or these -- only these</p> <p>19 five members specifically?</p> <p>20 A. We believed it was going to</p> <p>21 become a larger issue and impact more and</p> <p>22 more members and, therefore, we felt it was</p> <p>23 in the interest of all.</p> <p>24 Q. Of all of FMI's members?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 273</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 part of the program if they wanted to.</p> <p>3 BY MR. DAVIS:</p> <p>4 Q. And you write that "...an</p> <p>5 industry approach would...provide an</p> <p>6 incentive for the supplier community to work</p> <p>7 with their supermarket customers to develop</p> <p>8 an effective animal welfare programme." What</p> <p>9 is it that you mean by that?</p> <p>10 A. I'm sorry, can you tell me</p> <p>11 where that is?</p> <p>12 Q. I'm sorry. It's in this</p> <p>13 paragraph, "They reasoned that an industry</p> <p>14 approach would..." and then one of the</p> <p>15 things that you list there is "...provide an</p> <p>16 incentive for the supplier community to work</p> <p>17 with their supermarket customers to develop</p> <p>18 an effective animal welfare programme."</p> <p>19 A. The intent was -- and, again,</p> <p>20 we were looking at what was happening in the</p> <p>21 food service industry. What we wanted --</p> <p>22 what we felt would be an incentive is that we</p> <p>23 would have one approach and not 1,500</p> <p>24 companies all having their own set of</p> <p>25 standards or guidelines or their approach.</p>

<p style="text-align: right;">Page 274</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 The idea was we could make it simple for the</p> <p>3 retailers and the industry to have one way to</p> <p>4 approach the issue.</p> <p>5 Q. So the view was -- your view</p> <p>6 was it was in members' interests to have one</p> <p>7 industry-wide standard?</p> <p>8 A. Our members felt that it was</p> <p>9 certainly an advantage for them and it would</p> <p>10 be for their suppliers, too.</p> <p>11 Q. So it would be -- so FMI then</p> <p>12 worked with the industry to develop a single</p> <p>13 animal welfare standard?</p> <p>14 MR. PATTON: Objection.</p> <p>15 MR. WILDERS: Objection. Vague.</p> <p>16 THE WITNESS: That's not the way</p> <p>17 I would put it.</p> <p>18 BY MR. DAVIS:</p> <p>19 Q. Did FMI --</p> <p>20 MR. PATTON: Let her finish her</p> <p>21 answer.</p> <p>22 THE WITNESS: When you say</p> <p>23 "industry," you need to clarify for me</p> <p>24 who you mean when you say "industry."</p> <p>25 BY MR. DAVIS:</p>	<p style="text-align: right;">Page 276</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 among other things, "...provide an incentive</p> <p>3 for the supplier community to work with their</p> <p>4 supermarket customers to develop an effective</p> <p>5 animal welfare programme." Right?</p> <p>6 A. Yes.</p> <p>7 Q. So what does that mean?</p> <p>8 A. The concept of an animal</p> <p>9 welfare program was to come up with how would</p> <p>10 we proceed with the other animal industry</p> <p>11 groups to identify what would be in an animal</p> <p>12 welfare policy, what would be in a guideline,</p> <p>13 how would those guidelines be monitored or</p> <p>14 implemented. So we wanted to meet with those</p> <p>15 groups to develop the whole gamut of what</p> <p>16 needed to be done to end up with a policy</p> <p>17 that everybody could say we've all had input</p> <p>18 in and embrace this policy.</p> <p>19 Q. So FMI worked with producer</p> <p>20 groups --</p> <p>21 A. Yes.</p> <p>22 Q. -- to develop animal welfare</p> <p>23 guidelines that could be embraced by the</p> <p>24 industry?</p> <p>25 A. Again --</p>
<p style="text-align: right;">Page 275</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Sure. A producer organization.</p> <p>3 A. Okay.</p> <p>4 Q. Would FMI work with producer</p> <p>5 organizations in the effort of</p> <p>6 collaboratively developing an animal welfare</p> <p>7 policy that could be embraced by that entire</p> <p>8 industry?</p> <p>9 MR. PATTON: Object to the form.</p> <p>10 THE WITNESS: We did want to</p> <p>11 make the commodity groups aware of</p> <p>12 what our policy would entail, but it</p> <p>13 was not our intent to sit down with</p> <p>14 them and we would write a guideline.</p> <p>15 BY MR. DAVIS:</p> <p>16 Q. You collaborated with them to</p> <p>17 develop guidelines?</p> <p>18 MR. WILDERS: Objection.</p> <p>19 MR. PATTON: Objection.</p> <p>20 THE WITNESS: Not to develop.</p> <p>21 They were already developed. They had</p> <p>22 their own guidelines.</p> <p>23 BY MR. DAVIS:</p> <p>24 Q. You say here that "They</p> <p>25 reasoned that an industry approach would...."</p>	<p style="text-align: right;">Page 277</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 MR. WILDERS: Objection.</p> <p>3 Mischaracterizes the testimony.</p> <p>4 THE WITNESS: I'm sorry. I</p> <p>5 would say it was the overall program</p> <p>6 we worked together on. The guidelines</p> <p>7 existed already. We wanted to work to</p> <p>8 review them, be sure that they</p> <p>9 represented best practices, but we</p> <p>10 didn't sit down with a blank piece of</p> <p>11 paper to write a guideline.</p> <p>12 BY MR. DAVIS:</p> <p>13 Q. But FMI collaborated with</p> <p>14 producers to shape those guidelines?</p> <p>15 MR. PATTON: Objection to form.</p> <p>16 Asked and answered.</p> <p>17 MR. WILDERS: Objection.</p> <p>18 THE WITNESS: Again, I think</p> <p>19 it's the word we're struggling with</p> <p>20 here. They existed. The guidelines</p> <p>21 were there. We wanted to work with</p> <p>22 them on reviewing them, having experts</p> <p>23 provide input into whether or not they</p> <p>24 represented the best scientific best</p> <p>25 practices.</p>

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<p style="text-align: right;">Page 278</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. DAVIS:</p> <p>3 Q. And do you consider that FMI</p> <p>4 worked with producers to help to shape those</p> <p>5 guidelines then? I didn't say necessarily</p> <p>6 nonexistent to start, but did FMI work with</p> <p>7 producers --</p> <p>8 MR. GREEN: Asked and answered.</p> <p>9 MR. PATTON: Object to the form.</p> <p>10 BY MR. DAVIS:</p> <p>11 Q. Well, I'm going to ask it one</p> <p>12 more time.</p> <p>13 Did FMI work with producers to</p> <p>14 shape their guidelines in a way that could be</p> <p>15 embraced by an entire industry?</p> <p>16 MR. PATTON: Object to the form.</p> <p>17 MR. WILDERS: Objection. Asked</p> <p>18 and answered.</p> <p>19 THE WITNESS: I think the way I</p> <p>20 want to answer that is, again, to say</p> <p>21 that FMI worked with the producer</p> <p>22 groups to review their existing</p> <p>23 guidelines and provide them with</p> <p>24 information from experts, not from FMI</p> <p>25 itself, but from our advisory expert</p>	<p style="text-align: right;">Page 280</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Did FMI understand that that</p> <p>3 was a purpose for having an industry-wide set</p> <p>4 of animal welfare guidelines?</p> <p>5 MR. PATTON: Objection to form.</p> <p>6 Mischaracterizes the testimony and the</p> <p>7 evidence in the case.</p> <p>8 MR. WILDERS: Also vague and</p> <p>9 ambiguous.</p> <p>10 THE WITNESS: That was based on</p> <p>11 in our discussions when we used as an</p> <p>12 example what was happening</p> <p>13 particularly between McDonald's and</p> <p>14 Burger King, where an animal activist</p> <p>15 group was going back and forth between</p> <p>16 McDonald's and Burger King basically</p> <p>17 saying to one, this company did that,</p> <p>18 are you going to do it, they did this,</p> <p>19 can you do that. So our retailers,</p> <p>20 when they saw and heard what was going</p> <p>21 on in the fast food industry, did not</p> <p>22 want to be in that predicament where</p> <p>23 they were basically arguing or</p> <p>24 fighting with each other on what is</p> <p>25 animal welfare.</p>
<p style="text-align: right;">Page 279</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 panel on what could be done to those</p> <p>3 existing guidelines to assure they</p> <p>4 represented best science-based</p> <p>5 practices.</p> <p>6 BY MR. DAVIS:</p> <p>7 Q. If you could turn back to what</p> <p>8 was marked as Exhibit 12. Exhibit 12 is an</p> <p>9 e-mail exchange with Lynn Marmer from Kroger</p> <p>10 and Karen Brown. Do you recall seeing this</p> <p>11 document earlier this morning?</p> <p>12 A. Yes, I do.</p> <p>13 Q. If you look down in the</p> <p>14 document from Ms. Marmer, she writes that</p> <p>15 "...there are two purposes to having an</p> <p>16 industry-wide group..."</p> <p>17 Do you see that sentence, that</p> <p>18 phrase? It's about halfway down the first</p> <p>19 page.</p> <p>20 A. Yes, I see it.</p> <p>21 Q. One of those purposes is "to</p> <p>22 not allow advocacy groups to pit one retailer</p> <p>23 against another..."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 281</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. DAVIS:</p> <p>3 Q. Did you have an understanding</p> <p>4 as to why your members didn't want to be in</p> <p>5 that predicament?</p> <p>6 A. They felt it was nonproductive.</p> <p>7 It was not going to going achieve</p> <p>8 science-based welfare procedures and</p> <p>9 guidelines.</p> <p>10 Q. If you turn to the back of the</p> <p>11 exhibit, Ms. Marmer writes that "If the</p> <p>12 animal welfare group does its work right, it</p> <p>13 is reasonable to assume that most of the</p> <p>14 major purchasers of eggs (whether retailers</p> <p>15 or fast food) will support the FMI work group</p> <p>16 guidelines and the egg industry will have to</p> <p>17 get on board or be left behind by the major</p> <p>18 players."</p> <p>19 Is that what she wrote?</p> <p>20 A. That is what she wrote.</p> <p>21 Q. Do you agree with that</p> <p>22 statement?</p> <p>23 MR. PATTON: I'm going to object</p> <p>24 to the form.</p> <p>25 MR. DAVIS: You're objecting to</p>

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<p style="text-align: right;">Page 282</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 me asking her if she agrees with that?</p> <p>3 MR. PATTON: Yes.</p> <p>4 MR. GREEN: Are you asking</p> <p>5 individual or 30(b)(6)?</p> <p>6 BY MR. DAVIS:</p> <p>7 Q. I'll ask you first as an</p> <p>8 individual, do you agree with that statement?</p> <p>9 A. I don't.</p> <p>10 Q. Do you know if FMI has a view</p> <p>11 on that statement?</p> <p>12 A. My opinion from FMI's</p> <p>13 perspective is that this would not be the way</p> <p>14 we would position this. This would not be</p> <p>15 our statement.</p> <p>16 Q. So this is one member's view.</p> <p>17 Is that right?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know if other members</p> <p>20 had views that comported with Ms. Marmer's</p> <p>21 view?</p> <p>22 A. I wouldn't know. I don't know.</p> <p>23 Q. Is it your testimony that no</p> <p>24 other FMI members expressed a similar</p> <p>25 viewpoint as this?</p>	<p style="text-align: right;">Page 284</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 would get on board. That is strictly a</p> <p>3 relationship between a buyer and a seller, so</p> <p>4 it would be the retailer and their supplier.</p> <p>5 Q. I'm simply asking if you're</p> <p>6 aware of any other FMI members expressing a</p> <p>7 view akin to that one?</p> <p>8 A. No, I am not.</p> <p>9 Q. So you said that a portion of</p> <p>10 your membership would have supported this</p> <p>11 general view. Is that right?</p> <p>12 A. Yes.</p> <p>13 MR. WILDERS: Objection.</p> <p>14 THE WITNESS: I'm sorry.</p> <p>15 MR. GREEN: Mischaracterizes</p> <p>16 what she said.</p> <p>17 BY MR. DAVIS:</p> <p>18 Q. Did you say that a portion of</p> <p>19 your membership felt as though FMI could come</p> <p>20 up with a good process, there would be</p> <p>21 general support from the industry commodity</p> <p>22 groups?</p> <p>23 A. Yes, that is what I said.</p> <p>24 Q. And which members are those</p> <p>25 that you're referring to?</p>
<p style="text-align: right;">Page 283</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. I did not see this specifically</p> <p>3 from another member in writing as it is here.</p> <p>4 Q. Not necessarily in writing, but</p> <p>5 are you aware in any way of other members</p> <p>6 sharing this view?</p> <p>7 A. I believe a portion of it would</p> <p>8 have been supported in that our members did</p> <p>9 feel that if FMI could come up with a good</p> <p>10 process, that there would be general support</p> <p>11 from the industry commodity groups, not just</p> <p>12 the eggs, but from all of them, that it was a</p> <p>13 reasonable approach that in the long run</p> <p>14 would be good for all.</p> <p>15 Q. And that the industry, in this</p> <p>16 case the egg industry, would have to get on</p> <p>17 board?</p> <p>18 MR. WILDERS: Objection.</p> <p>19 Mischaracterizes the testimony.</p> <p>20 BY MR. DAVIS:</p> <p>21 Q. Directly quoting from the</p> <p>22 document that the egg industry would have to</p> <p>23 get on board?</p> <p>24 A. We never felt -- that's not</p> <p>25 within our purview to decide if the industry</p>	<p style="text-align: right;">Page 285</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. When I say "the members," I</p> <p>3 mean the FMI members.</p> <p>4 Q. You said a portion of your</p> <p>5 members. Are there members, specific members</p> <p>6 that you're thinking of?</p> <p>7 A. No. I was saying -- when I say</p> <p>8 a portion of the members, we felt and we were</p> <p>9 sure, based on input from the members, that</p> <p>10 they were looking for us to provide them with</p> <p>11 a reasonable way to support animal welfare</p> <p>12 best practices, and we felt that we could</p> <p>13 deliver on that and, therefore, they would</p> <p>14 support our approach to how to go about doing</p> <p>15 that.</p> <p>16 Q. Turn back to Exhibit 24, the</p> <p>17 article.</p> <p>18 A. Okay.</p> <p>19 Q. On page 657 at the top.</p> <p>20 A. Yes.</p> <p>21 Q. Under the heading "Joint</p> <p>22 programme," the second sentence you write,</p> <p>23 "The food service companies were being pulled</p> <p>24 into a competitive cycle whereby each company</p> <p>25 had to do something different from the next</p>

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<p style="text-align: right;">Page 286</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 to alleviate the public attention being</p> <p>3 directed at them and their customers."</p> <p>4 Do you see that?</p> <p>5 A. Under "Joint programme goals"</p> <p>6 or joint programs?</p> <p>7 Q. "Joint programme" heading.</p> <p>8 A. Okay.</p> <p>9 Q. Then the second sentence.</p> <p>10 A. Okay.</p> <p>11 Q. "The food service companies..."</p> <p>12 A. I see it now.</p> <p>13 Q. What did you mean by that</p> <p>14 statement?</p> <p>15 A. That is, again, referring back</p> <p>16 to the situation that was evolving among the</p> <p>17 fast food chains. Again, I will use</p> <p>18 McDonald's and Burger King as an example,</p> <p>19 that every time one of those companies took</p> <p>20 an animal welfare position, then the activist</p> <p>21 group would go to their competitor and say X</p> <p>22 company did this, can you do more than they</p> <p>23 did. And they were playing them against each</p> <p>24 other.</p> <p>25 Q. Did FMI members want to avoid</p>	<p style="text-align: right;">Page 288</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 yourself meant when you used the phrase,</p> <p>3 "competitive cycle"?</p> <p>4 A. Yes.</p> <p>5 Q. So that's not vague or</p> <p>6 ambiguous to you. Right:</p> <p>7 A. In this case word "competitive</p> <p>8 cycle" meant one company pitted against</p> <p>9 another to keep changing their animal welfare</p> <p>10 requirements to better the next company.</p> <p>11 Q. Using that definition --</p> <p>12 A. Yes.</p> <p>13 Q. -- did FMI members express a</p> <p>14 desire to avoid being pulled into a similar</p> <p>15 competitive cycle?</p> <p>16 A. They did not want to start</p> <p>17 developing independent individual animal</p> <p>18 welfare requirements just to say I have</p> <p>19 something different from company A or B.</p> <p>20 Q. And your membership expressed</p> <p>21 that viewpoint to you?</p> <p>22 A. Yes.</p> <p>23 MR. WILDERS: Objection. Vague</p> <p>24 and ambiguous.</p> <p>25 BY MR. DAVIS:</p>
<p style="text-align: right;">Page 287</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 being pulled into a similar competitive</p> <p>3 cycle?</p> <p>4 MR. PATTON: Object to the form.</p> <p>5 MR. WILDERS: Objection. Vague</p> <p>6 and ambiguous.</p> <p>7 MR. PATTON: Calls for</p> <p>8 information not in her knowledge.</p> <p>9 THE WITNESS: FMI and its</p> <p>10 members jointly agreed and believed</p> <p>11 that that was not the way to achieve</p> <p>12 sound science-based animal welfare</p> <p>13 guidelines.</p> <p>14 BY MR. DAVIS:</p> <p>15 Q. You call it here "a competitive</p> <p>16 cycle." Right?</p> <p>17 A. Yes, between companies,</p> <p>18 individual companies.</p> <p>19 Q. And did FMI members express a</p> <p>20 desire to avoid being engaged in that</p> <p>21 competitive cycle?</p> <p>22 MR. WILDERS: Objection. Vague</p> <p>23 and ambiguous.</p> <p>24 BY MR. DAVIS:</p> <p>25 Q. Do you understand what you</p>	<p style="text-align: right;">Page 289</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Turn back a page, 656 at the</p> <p>3 top.</p> <p>4 MR. WILDERS: Counsel, but is</p> <p>5 there a reason why we don't have a</p> <p>6 Bates stamp copy of this document?</p> <p>7 MR. DAVIS: This document was</p> <p>8 not, to my knowledge, produced in this</p> <p>9 case yet.</p> <p>10 MR. WILDERS: Then I move to</p> <p>11 strike all testimony if you didn't</p> <p>12 produce the document. I would move to</p> <p>13 strike all the testimony related to</p> <p>14 this document since it wasn't produced</p> <p>15 in our case pursuant to our discovery</p> <p>16 request before this deposition.</p> <p>17 BY MR. DAVIS:</p> <p>18 Q. 656, under "The role of the</p> <p>19 Food Marketing Institute," do you see that</p> <p>20 header?</p> <p>21 A. Yes.</p> <p>22 Q. The second paragraph starts,</p> <p>23 "In December 2000, the FMI formed a member</p> <p>24 company advisory committee..."</p> <p>25 Do you see that?</p>

<p style="text-align: right;">Page 290</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. And is that accurate that in</p> <p>4 December 2000, FMI formed a member advisory</p> <p>5 committee?</p> <p>6 A. Yes.</p> <p>7 Q. Did you personally have a role</p> <p>8 with regard to that committee?</p> <p>9 A. Yes.</p> <p>10 Q. What was your role?</p> <p>11 A. Mainly -- I would say it was</p> <p>12 twofold. One would be to listen to their</p> <p>13 input on how they would like FMI to proceed.</p> <p>14 And then also to present to them ideas and</p> <p>15 suggestions that FMI had come up with for how</p> <p>16 we might want to proceed on setting up an</p> <p>17 animal welfare program.</p> <p>18 Q. Why was that -- why was that</p> <p>19 committee formed?</p> <p>20 A. The committee was formed</p> <p>21 because we had requests from at least five</p> <p>22 members to further explore their concerns</p> <p>23 about animal welfare.</p> <p>24 Q. What were that committee's</p> <p>25 responsibilities?</p>	<p style="text-align: right;">Page 292</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. They still would have that</p> <p>3 list?</p> <p>4 A. I believe so.</p> <p>5 Q. Did the committee hold</p> <p>6 meetings?</p> <p>7 A. To the best of my recollection,</p> <p>8 they were conference calls.</p> <p>9 Q. Do you know how often those</p> <p>10 occurred?</p> <p>11 A. Not off the top of my head, no.</p> <p>12 Q. Do you know when the first one</p> <p>13 was?</p> <p>14 A. I believe it would have been in</p> <p>15 late 2000.</p> <p>16 Q. Do you know if minutes were</p> <p>17 kept?</p> <p>18 A. There would either have been</p> <p>19 minutes kept or follow up of summaries of</p> <p>20 here is what we agreed to as far as next</p> <p>21 steps.</p> <p>22 Q. Who from FMI participated on --</p> <p>23 in these meetings or on these conference</p> <p>24 calls?</p> <p>25 A. Primarily myself and Karen</p>
<p style="text-align: right;">Page 291</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Initially it was to identify to</p> <p>3 FMI what were their concerns, their ideas for</p> <p>4 how we might want to proceed, and then also</p> <p>5 to review and comment back to us on proposals</p> <p>6 we made for what would be next steps.</p> <p>7 Q. Ultimately did FMI take</p> <p>8 direction from that committee?</p> <p>9 A. Yes.</p> <p>10 Q. Who served on the Member</p> <p>11 Advisory Committee?</p> <p>12 A. There were representatives from</p> <p>13 Ahold, Albertsons, Kroger, Safeway and</p> <p>14 Wal-Mart.</p> <p>15 Q. Do you recall anyone from</p> <p>16 Winn-Dixie serving on that committee?</p> <p>17 A. Over time the committee grew</p> <p>18 and other members asked to add a</p> <p>19 representative, so I remember the initial</p> <p>20 five. Off the top of my head, I couldn't --</p> <p>21 because there were member companies that</p> <p>22 added on and added on over time.</p> <p>23 Q. Does FMI have lists showing the</p> <p>24 members of that committee?</p> <p>25 A. I believe they would, yes.</p>	<p style="text-align: right;">Page 293</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Brown.</p> <p>3 Q. Is there anyone else that</p> <p>4 participated from time to time?</p> <p>5 A. From time to time we might</p> <p>6 have -- I believe in one meeting we had, for</p> <p>7 example, somebody from the communications</p> <p>8 group who was going to share with the members</p> <p>9 information that they had gathered on how</p> <p>10 many media hits there were on animal welfare</p> <p>11 stories and that type of thing.</p> <p>12 Q. To the extent that notes or</p> <p>13 minutes were kept, who would have kept those?</p> <p>14 A. FMI.</p> <p>15 Q. Was it you or Karen specifically</p> <p>16 that would have been in charge of that?</p> <p>17 A. Usually Karen kept the minutes</p> <p>18 from the conversations.</p> <p>19 Q. Do you know what she did with</p> <p>20 those minutes?</p> <p>21 A. I would assume -- like I said,</p> <p>22 the minutes themselves might have just been</p> <p>23 notes that were then turned into summaries.</p> <p>24 And I would assume that they are still part</p> <p>25 of the FMI files.</p>



<p style="text-align: right;">Page 294</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Were they circulated by e-mail?</p> <p>3 A. They would have been circulated</p> <p>4 either probably by e-mail or electronically</p> <p>5 in some way to those people who participated</p> <p>6 on the call.</p> <p>7 Q. Including yourself?</p> <p>8 A. Yes.</p> <p>9 Q. Does this Member Advisory</p> <p>10 Committee exist today?</p> <p>11 A. No, it was more of an ad hoc</p> <p>12 working group to develop our policy and</p> <p>13 program for animal welfare. The member group</p> <p>14 does not exist, to my knowledge, anymore.</p> <p>15 Q. When was it disbanded?</p> <p>16 A. I don't know that there was an</p> <p>17 exact date, but I would say that the</p> <p>18 committee, once FMI was able to publish the</p> <p>19 list of guidelines that we were supporting</p> <p>20 and the process for how we would have</p> <p>21 continuous review and improvement, there was</p> <p>22 no more need for that committee, and they</p> <p>23 just didn't have a need to have continuing</p> <p>24 conference calls. I would say that was</p> <p>25 probably around 2005.</p>	<p style="text-align: right;">Page 296</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 was happening with FMI on this issue, were we</p> <p>3 aware of it, and we would tell them about the</p> <p>4 committee and ask them if they wanted to</p> <p>5 join.</p> <p>6 I think there were some -- we</p> <p>7 did send out information to our members on --</p> <p>8 again, we would track emerging issues and we</p> <p>9 would have made them aware that this was an</p> <p>10 issue we're keeping a close eye on, it's on</p> <p>11 our radar screen and they might have come</p> <p>12 back to us and said we're interesting, could</p> <p>13 we put somebody on this working group. So</p> <p>14 they by and large would have approached us</p> <p>15 with concern about animal welfare, and we</p> <p>16 would let them know about the Advisory</p> <p>17 Committee, and if they wanted to participate,</p> <p>18 they would be welcome to do so.</p> <p>19 Q. Were all the members of this</p> <p>20 Advisory Committee, did they all express an</p> <p>21 affirmative interest in animal welfare?</p> <p>22 A. Yes. That's why they wanted to</p> <p>23 be on the committee.</p> <p>24 Q. I'll show you what's been</p> <p>25 marked as Exhibit 25.</p>
<p style="text-align: right;">Page 295</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. So during the approximately</p> <p>3 four or five years that this committee was in</p> <p>4 existence, did you have continuous contact</p> <p>5 with the committee?</p> <p>6 A. Yes. We would keep them</p> <p>7 apprised of things as they were being</p> <p>8 developed.</p> <p>9 Q. And that's you personally as</p> <p>10 well as others at FMI?</p> <p>11 A. Myself and Karen.</p> <p>12 Q. How -- you said initially the</p> <p>13 committee had five members on it and then it</p> <p>14 grew over time?</p> <p>15 A. Uh-huh.</p> <p>16 Q. Yes?</p> <p>17 A. Yes. I'm sorry.</p> <p>18 Q. How was it that other members</p> <p>19 came to be added to the committee?</p> <p>20 A. I think there was probably two,</p> <p>21 maybe three ways. One would be if a member</p> <p>22 approached FMI to notify us they had either</p> <p>23 received a letter from an activist group or</p> <p>24 if they had heard about it in, say, local</p> <p>25 media, and they would call us to ask us what</p>	<p style="text-align: right;">Page 297</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 - - -</p> <p>3 (Exhibit H-25, 7/2/01 Fax, Bates</p> <p>4 FMI-001129 - FMI-001142, was marked</p> <p>5 for identification.)</p> <p>6 - - -</p> <p>7 BY MR. DAVIS:</p> <p>8 Q. Dr. Hollingsworth, do you</p> <p>9 recognize Exhibit 25?</p> <p>10 A. Yes.</p> <p>11 Q. What is this document?</p> <p>12 A. This was information that was</p> <p>13 provided by Karen Brown of -- it looks like</p> <p>14 to a group of members who were going to have</p> <p>15 a meeting in Chicago on animal welfare.</p> <p>16 Q. Do you know if the people</p> <p>17 listed on the to and the cc lines here</p> <p>18 constitute the Member Advisory Committee?</p> <p>19 A. I don't know that they were all</p> <p>20 actually considered official members of an</p> <p>21 advisory committee, but they were all members</p> <p>22 who had expressed an interest in what we were</p> <p>23 doing with animal welfare and wanted to be a</p> <p>24 part of any updates that we were putting out.</p> <p>25 Q. Do you have any understanding</p>

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<p style="text-align: right;">Page 298</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 of why certain people are listed in the to</p> <p>3 field and others are in the cc field?</p> <p>4 A. No.</p> <p>5 Q. Does this refresh your</p> <p>6 recollection at all as to when members from</p> <p>7 Winn-Dixie were involved with the Member</p> <p>8 Advisory Committee?</p> <p>9 A. They're listed here, yes.</p> <p>10 Q. Do you believe that as of</p> <p>11 July 2001, those members were also</p> <p>12 involved --</p> <p>13 A. Yes.</p> <p>14 Q. -- with the committee?</p> <p>15 A. These people were all</p> <p>16 interested in what we were doing with animal</p> <p>17 welfare.</p> <p>18 Q. Was this document drafted in</p> <p>19 the normal course of FMI's business?</p> <p>20 MR. PATTON: Object to the form.</p> <p>21 MR. WILDERS: Lacks foundation.</p> <p>22 MR. PATTON: There are several</p> <p>23 documents.</p> <p>24 BY MR. DAVIS:</p> <p>25 Q. I'll still refer to it as --</p>	<p style="text-align: right;">Page 300</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 paragraph says -- I'm sorry, I mean the first</p> <p>3 page of the document, like the cover sheet.</p> <p>4 A. This one, cover sheet. I'm</p> <p>5 sorry.</p> <p>6 Q. The second paragraph says, "The</p> <p>7 purpose of our meeting is to review and</p> <p>8 comment on the gaps in current producer</p> <p>9 industry guidelines that have been identified</p> <p>10 by our third party animal welfare experts."</p> <p>11 Is that the first sentence?</p> <p>12 A. Yes.</p> <p>13 Q. Then it goes on, "You will help</p> <p>14 us develop a process to determine the</p> <p>15 feasibility and potential economic impact at</p> <p>16 retail of changes to current guidelines."</p> <p>17 That's the second sentence. Is that right?</p> <p>18 A. Yes.</p> <p>19 Q. So was it, in fact, true that</p> <p>20 the individuals listed here were to help FMI</p> <p>21 develop a process to determine the</p> <p>22 feasibility and potential economic impact at</p> <p>23 retail of changes to current animal welfare</p> <p>24 guidelines?</p> <p>25 A. Yes, that was listed here as</p>
<p style="text-align: right;">Page 299</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 I'll rephrase the question.</p> <p>3 Was this document as a whole</p> <p>4 maintained in this fashion by FMI in FMI's</p> <p>5 ordinary course of business?</p> <p>6 MR. WILDERS: Objection. Lacks</p> <p>7 foundation. Outside the scope of the</p> <p>8 deposition notice.</p> <p>9 THE WITNESS: Yes. If this is</p> <p>10 the cover sheet and then it indicates</p> <p>11 what documents are attached or</p> <p>12 included, and that is the way it would</p> <p>13 have been maintained in our files, in</p> <p>14 our records.</p> <p>15 BY MR. DAVIS:</p> <p>16 Q. To the extent that FMI drafted</p> <p>17 portions of this document, were those</p> <p>18 portions drafted in the ordinary course of</p> <p>19 FMI's business?</p> <p>20 A. They would have been, yes.</p> <p>21 Q. And they were drafted on or</p> <p>22 about July 2, 2001, this front page at least?</p> <p>23 A. That's what this document</p> <p>24 reflects.</p> <p>25 Q. Look on page 1, the second</p>	<p style="text-align: right;">Page 301</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 the intent of this meeting.</p> <p>3 Q. And that's accurate?</p> <p>4 A. Yes.</p> <p>5 Q. What does that mean to develop</p> <p>6 a process to determine the feasibility and</p> <p>7 potential economic impact at retail of</p> <p>8 changes to the current guidelines?</p> <p>9 A. One of the things that we</p> <p>10 wanted to be sure is that any program we had</p> <p>11 was not just a paperwork exercise, it was</p> <p>12 something that could truly -- and that was</p> <p>13 the feasibility part, that it could, in fact,</p> <p>14 be done, that it was reasonable and practical</p> <p>15 and feasible. And as far as the economic</p> <p>16 impact, our members had said what we do not</p> <p>17 want is a disruption in the marketplace. We</p> <p>18 don't want to do anything that would be</p> <p>19 extreme. What we're looking for is a</p> <p>20 reasonable program that both the suppliers</p> <p>21 and the buyers can deal with, yet they were</p> <p>22 assured by our experts it was scientifically</p> <p>23 based.</p> <p>24 Q. What do you mean when you say</p> <p>25 "a disruption in the marketplace"? Why is it</p>

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<p style="text-align: right;">Page 302</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 that FMI members wanted to avoid that?</p> <p>3 A. Because one of their goals here</p> <p>4 was not to overreact or make changes based on</p> <p>5 emotions, but that rather we were approaching</p> <p>6 this in a thoughtful scientific way and also</p> <p>7 the belief that it didn't have to be done</p> <p>8 overnight, it could be a phased in kind of</p> <p>9 program.</p> <p>10 Q. And so but your term was "a</p> <p>11 disruption in the marketplace," I think.</p> <p>12 A. Right.</p> <p>13 Q. That members wanted to avoid</p> <p>14 you said. Is that right?</p> <p>15 A. Yes.</p> <p>16 Q. What do you mean by that, "a</p> <p>17 disruption in the marketplace"?</p> <p>18 MR. PATTON: Objection. Asked</p> <p>19 and answered.</p> <p>20 MR. WILDERS: Objection.</p> <p>21 THE WITNESS: I don't think we</p> <p>22 wanted to look at a program for any of</p> <p>23 the commodities that would prevent</p> <p>24 that commodity from being available</p> <p>25 for sale in the market.</p>	<p style="text-align: right;">Page 304</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Was this document as it's kept</p> <p>3 here maintained in this fashion in the</p> <p>4 ordinary course of FMI's business?</p> <p>5 A. Yes, it would have been.</p> <p>6 Q. And the portions of it that are</p> <p>7 drafted by FMI, were those drafted in the</p> <p>8 ordinary course of FMI's business?</p> <p>9 A. Yes.</p> <p>10 Q. And they were drafted</p> <p>11 contemporaneously with what's being described</p> <p>12 in here?</p> <p>13 A. Yes.</p> <p>14 MR. DAVIS: Why don't we take a</p> <p>15 short break. Go off the record.</p> <p>16 VIDEOGRAPHER: Going off the</p> <p>17 record at the time of 3:23.</p> <p>18 - - -</p> <p>19 (A recess was taken.)</p> <p>20 - - -</p> <p>21 VIDEOGRAPHER: Back on the video</p> <p>22 record. The start of disc number</p> <p>23 four. The time is 3:20 -- sorry,</p> <p>24 3:32.</p> <p>25 BY MR. DAVIS:</p>
<p style="text-align: right;">Page 303</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. DAVIS:</p> <p>3 Q. I'll show you what's been</p> <p>4 marked as Exhibit 26.</p> <p>5 - - -</p> <p>6 (Exhibit H-26, 8/13/01 Fax,</p> <p>7 Bates FMI-001099 - FMI-001117, was</p> <p>8 marked for identification.)</p> <p>9 - - -</p> <p>10 BY MR. DAVIS:</p> <p>11 Q. Dr. Hollingsworth, do you</p> <p>12 recognize Exhibit 26?</p> <p>13 A. Yes, I recognize it as a</p> <p>14 document developed by Karen Brown in follow</p> <p>15 up to the meeting we had in Chicago.</p> <p>16 Q. And is this another meeting of</p> <p>17 the -- the meeting you're referring to as one</p> <p>18 of the Member Advisory Committee?</p> <p>19 A. Was this group who -- it was</p> <p>20 the group that was identified as those</p> <p>21 members who had an ongoing interest in animal</p> <p>22 welfare.</p> <p>23 Q. So that's inclusive of the</p> <p>24 Member Advisory Committee?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 305</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Dr. Hollingsworth, I think you</p> <p>3 had one correction you'd like to make on the</p> <p>4 record.</p> <p>5 A. Yes, I would. I had previously</p> <p>6 stated that meeting minutes and notes were</p> <p>7 kept either electronically or in hard form</p> <p>8 and they would be in FMI's possession. I</p> <p>9 wanted to also add to that that all of those</p> <p>10 documents have already been produced by FMI</p> <p>11 in their document production. So they have</p> <p>12 already been provided.</p> <p>13 Q. Is that your statement?</p> <p>14 A. Yes.</p> <p>15 Q. How is it that you know that?</p> <p>16 A. I was advised of that by legal</p> <p>17 counsel.</p> <p>18 Q. Do you know where in FMI's</p> <p>19 production those are or how they were</p> <p>20 collected?</p> <p>21 A. They were provided to you in</p> <p>22 the request for producing documents.</p> <p>23 Q. Do you know how they were</p> <p>24 collected by FMI?</p> <p>25 A. No.</p>

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<p style="text-align: right;">Page 306</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 MR. DAVIS: One other statement</p> <p>3 for Mr. Wilders. I'm advised that</p> <p>4 Exhibit 24 is, in fact, in the Kansas</p> <p>5 production, and that it's located at</p> <p>6 Bates CM 731181 through 89.</p> <p>7 MR. WILDERS: Thank you.</p> <p>8 BY MR. DAVIS:</p> <p>9 Q. Dr. Hollingsworth, I'll direct</p> <p>10 your attention back to Exhibit 24, the</p> <p>11 article. If you turn to page 660. So the</p> <p>12 paragraph immediately above the word</p> <p>13 "Conclusion" ends with the sentence,</p> <p>14 "Suppliers and producers need to support</p> <p>15 their retail customers on public policy</p> <p>16 issues if the food industry is to avoid</p> <p>17 mandatory programmes and maintain consumer</p> <p>18 confidence."</p> <p>19 Is that right?</p> <p>20 A. Yes.</p> <p>21 Q. That's what you and Ms. Brown</p> <p>22 wrote?</p> <p>23 A. Yes.</p> <p>24 Q. Is this a view that was shared</p> <p>25 by FMI's members?</p>	<p style="text-align: right;">Page 308</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 MR. WILDERS: Objection. Calls</p> <p>3 for speculation.</p> <p>4 THE WITNESS: We wanted to be</p> <p>5 sure that we worked together as</p> <p>6 partners on any programs that could,</p> <p>7 in fact, become mandatory or</p> <p>8 regulatory, whereas if we worked</p> <p>9 together and supported the programs,</p> <p>10 then they were likely to remain as</p> <p>11 voluntary programs.</p> <p>12 BY MR. DAVIS:</p> <p>13 Q. So is animal welfare an example</p> <p>14 of a program that you say could become</p> <p>15 regulatory or mandatory?</p> <p>16 A. We felt that was a possibility.</p> <p>17 Q. And that's an example of a</p> <p>18 program where suppliers and producers need to</p> <p>19 support their retail customers, according to</p> <p>20 you?</p> <p>21 MR. WILDERS: Objection.</p> <p>22 Misstates the testimony. Calls for</p> <p>23 speculation.</p> <p>24 THE WITNESS: It's a program</p> <p>25 where suppliers and buyers together</p>
<p style="text-align: right;">Page 307</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 MR. WILDERS: Objection. Vague</p> <p>4 and ambiguous.</p> <p>5 BY MR. DAVIS:</p> <p>6 Q. So you say that "Suppliers and</p> <p>7 producers need to support their retail</p> <p>8 customers..." Right?</p> <p>9 A. That's what it says.</p> <p>10 Q. And why is it that suppliers</p> <p>11 and producers need to support their retail</p> <p>12 customers?</p> <p>13 A. As the rest of the sentence</p> <p>14 says, it was always the industry, when I say</p> <p>15 "industry" here, I mean retail and suppliers,</p> <p>16 that when possible they would prefer not to</p> <p>17 have regulatory or mandatory programs imposed</p> <p>18 on them, but rather work together on</p> <p>19 voluntary programs.</p> <p>20 Q. But you say that "Suppliers and</p> <p>21 producers need to support their retail</p> <p>22 customers..." Right? So was it important</p> <p>23 for FMI's retail customer member -- I'm</p> <p>24 sorry, retail members, that they have the</p> <p>25 support of suppliers and producers?</p>	<p style="text-align: right;">Page 309</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 need to work together to have</p> <p>3 voluntary programs.</p> <p>4 BY MR. DAVIS:</p> <p>5 Q. And so did FMI seek the</p> <p>6 support, then, of suppliers and producers?</p> <p>7 MR. PATTON: Object to the form.</p> <p>8 THE WITNESS: We developed a</p> <p>9 program that would actually engage and</p> <p>10 include them in the process.</p> <p>11 BY MR. DAVIS:</p> <p>12 Q. It was FMI's program that</p> <p>13 engaged and included suppliers and producers?</p> <p>14 MR. PATTON: Object to the form.</p> <p>15 THE WITNESS: Right. We did not</p> <p>16 want to do this independent without</p> <p>17 input and involvement of the</p> <p>18 producers.</p> <p>19 BY MR. DAVIS:</p> <p>20 Q. I'm using your words.</p> <p>21 A. Yes.</p> <p>22 Q. FMI sought the support --</p> <p>23 retail customers sought the support of</p> <p>24 suppliers and producers. Is that accurate?</p> <p>25 MR. WILDERS: Objection. Asked</p>

<p style="text-align: right;">Page 310</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 and answered.</p> <p>3 THE WITNESS: That is correct,</p> <p>4 on a policy issue, yes.</p> <p>5 BY MR. DAVIS:</p> <p>6 Q. Animal welfare being one of</p> <p>7 them?</p> <p>8 A. Yes.</p> <p>9 Q. If you turn back to page 656.</p> <p>10 Dr. Hollingsworth, if you turn on this</p> <p>11 document to page 656. In the second column</p> <p>12 under "Programme of the Food Marketing</p> <p>13 Institute" --</p> <p>14 A. Yes.</p> <p>15 Q. -- it says, "On 14</p> <p>16 January 2001, the FMI's Board of Directors</p> <p>17 adopted a policy and programme to address</p> <p>18 animal welfare (Appendix 1)."</p> <p>19 A. Yes.</p> <p>20 Q. And if then you turn to page</p> <p>21 660 where it says, "Appendix 1."</p> <p>22 A. Yes.</p> <p>23 Q. Does this, in fact, reflect the</p> <p>24 policy and program that the Food Marketing</p> <p>25 Institute developed?</p>	<p style="text-align: right;">Page 312</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 policy or the policy that FMI has as of 2012?</p> <p>3 A. Yes, it is.</p> <p>4 Q. And it is substantially similar</p> <p>5 in your view to the one that existed in 2001?</p> <p>6 A. Yes.</p> <p>7 Q. Does FMI's board monitor FMI's</p> <p>8 staff's compliance with this policy?</p> <p>9 MR. PATTON: Object to the form</p> <p>10 of the question. Note for the record</p> <p>11 this questioning is outside the scope</p> <p>12 of the discovery period in this case.</p> <p>13 THE WITNESS: I'm not sure I</p> <p>14 understand when you say, "FMI's</p> <p>15 staff's compliance."</p> <p>16 BY MR. DAVIS:</p> <p>17 Q. Well, is this -- this a policy</p> <p>18 that -- does this direct the activities of</p> <p>19 FMI's staff?</p> <p>20 A. Yes.</p> <p>21 Q. And does the board oversee the</p> <p>22 staff's compliance with that policy?</p> <p>23 MR. PATTON: Of the 2012?</p> <p>24 MR. DAVIS: Correct.</p> <p>25 THE WITNESS: I would say that</p>
<p style="text-align: right;">Page 311</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. Is that the same one that you</p> <p>4 testified about earlier, you were shown</p> <p>5 another document about this?</p> <p>6 A. Yes, this was the one that was</p> <p>7 included in the FMI board policy.</p> <p>8 Q. Has -- and that's Exhibit 3?</p> <p>9 I'm sorry, can you reference Exhibit 3?</p> <p>10 A. Yes.</p> <p>11 Q. Has the board ever reconsidered</p> <p>12 or reevaluated this policy?</p> <p>13 A. Yes. Just recently in 2012 it</p> <p>14 was updated.</p> <p>15 Q. I'll show you what's been</p> <p>16 marked as Exhibit 27.</p> <p>17 A. All right.</p> <p>18 - - -</p> <p>19 (Exhibit H-27, Animal Welfare</p> <p>20 for Food Animals Revised version</p> <p>21 adopted 1/26/12, Bates FMI-000038, was</p> <p>22 marked for identification.)</p> <p>23 - - -</p> <p>24 BY MR. DAVIS:</p> <p>25 Q. Is Exhibit 27 the revised</p>	<p style="text-align: right;">Page 313</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 the staff reports directly to the CEO</p> <p>3 and president of FMI who in turn</p> <p>4 reports to the board. The staff does</p> <p>5 not generally report directly to the</p> <p>6 board.</p> <p>7 BY MR. DAVIS:</p> <p>8 Q. That's fine. Does FMI</p> <p>9 continue, then, to work with producer</p> <p>10 organizations to promote animal welfare</p> <p>11 programs?</p> <p>12 MR. PATTON: Continuing</p> <p>13 objection to the scope.</p> <p>14 MR. WILDERS: Mischaracterizes</p> <p>15 the prior testimony.</p> <p>16 THE WITNESS: Yes, FMI continues</p> <p>17 to work with its sister trade</p> <p>18 organizations on this and a variety of</p> <p>19 issues.</p> <p>20 BY MR. DAVIS:</p> <p>21 Q. If you turn in the article,</p> <p>22 Exhibit 24, to page 656, and, again, under</p> <p>23 "Programme of the Food Marketing Institute,"</p> <p>24 that paragraph about halfway down, you write</p> <p>25 that "The FMI Board directed the organization</p>

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<p style="text-align: right;">Page 314</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 to develop retailer expectations for use with</p> <p>3 suppliers; to work with respected animal</p> <p>4 welfare experts and organizations; to review</p> <p>5 expectations with the producer community; to</p> <p>6 distribute expectations as voluntary</p> <p>7 recommendations for retailers to adopt; and</p> <p>8 to support an on-going animal welfare..."</p> <p>9 A. I'm sorry, can I stop -- I'm</p> <p>10 not following where you were. I'm sorry, did</p> <p>11 you say 656 or 7?</p> <p>12 Q. 656.</p> <p>13 A. Okay. I'm at 657. I'm sorry.</p> <p>14 Okay. Again?</p> <p>15 Q. "Programme of the Food</p> <p>16 Marketing Institute."</p> <p>17 A. Yes.</p> <p>18 Q. And then it reads, "The FMI</p> <p>19 Board directed the organization....," about</p> <p>20 halfway down that paragraph.</p> <p>21 A. I see it, yes.</p> <p>22 Q. So if you read that sentence,</p> <p>23 it is that the board directed FMI to develop</p> <p>24 retailer expectations?</p> <p>25 A. The board directed FMI to work</p>	<p style="text-align: right;">Page 316</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 by those suppliers?</p> <p>3 MR. WILDERS: Objection.</p> <p>4 Misstates the prior testimony.</p> <p>5 THE WITNESS: The expectations</p> <p>6 were things such as you would rely on</p> <p>7 science and experts. Those were the</p> <p>8 types of expectations that we</p> <p>9 developed with the retailers and then</p> <p>10 shared that with the suppliers.</p> <p>11 BY MR. DAVIS:</p> <p>12 Q. You say -- all right. So were</p> <p>13 the retailer expectations, in fact, shared</p> <p>14 with suppliers?</p> <p>15 MR. WILDERS: Objection. Calls</p> <p>16 for speculation.</p> <p>17 THE WITNESS: Yes, they were.</p> <p>18 BY MR. DAVIS:</p> <p>19 Q. What suppliers were they shared</p> <p>20 with?</p> <p>21 A. They were -- well, let me</p> <p>22 correct that then when you say "suppliers."</p> <p>23 They were shared with the other commodity</p> <p>24 organizations.</p> <p>25 Q. Like UEP?</p>
<p style="text-align: right;">Page 315</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 with the retailers to develop a set of</p> <p>3 expectations that they could then share with</p> <p>4 suppliers.</p> <p>5 Q. So the -- just so the retailers</p> <p>6 would, or FMI would develop expectations for</p> <p>7 retailers to use in requesting of suppliers?</p> <p>8 A. No, these expectations were the</p> <p>9 expectations that retailers had for what</p> <p>10 would constitute an animal welfare program.</p> <p>11 Q. They were retailers'</p> <p>12 expectations?</p> <p>13 A. Yes.</p> <p>14 Q. And they were for use with the</p> <p>15 suppliers --</p> <p>16 A. Right.</p> <p>17 Q. -- who were supplying those</p> <p>18 retailers?</p> <p>19 A. Yes. They were to share with</p> <p>20 the suppliers that these are things the</p> <p>21 retailers have concerns about and</p> <p>22 expectations for what they hope an animal</p> <p>23 welfare program and guidance would look like.</p> <p>24 Q. With the hope of shaping the</p> <p>25 animal welfare policies that were implemented</p>	<p style="text-align: right;">Page 317</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. So FMI shared its retailers'</p> <p>4 expectations with UEP?</p> <p>5 A. Yes.</p> <p>6 Q. And FMI reviewed its suppliers'</p> <p>7 expectations with the producer community?</p> <p>8 A. Again, through their trade</p> <p>9 associations.</p> <p>10 Q. So FMI reviewed its suppliers'</p> <p>11 expectations with UEP?</p> <p>12 A. Yes.</p> <p>13 MR. PATTON: Objection to the</p> <p>14 form of the question.</p> <p>15 BY MR. DAVIS:</p> <p>16 Q. Is that right?</p> <p>17 A. We went over those expectations</p> <p>18 with the commodity group so that they</p> <p>19 understood what it was the FMI members were</p> <p>20 asking them to consider in their animal</p> <p>21 guidelines.</p> <p>22 MR. PATTON: Evan, I just want</p> <p>23 to know, I think you -- I'm not</p> <p>24 interfering with your exam. I think</p> <p>25 you said supplier expectations, I</p>

<p style="text-align: right;">Page 318</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 don't think you meant that so you</p> <p>3 might want to check your --</p> <p>4 MS. ANDERSON: You stated so FMI</p> <p>5 reviewed its suppliers' expectations</p> <p>6 with UEP.</p> <p>7 MR. DAVIS: You're right. I did</p> <p>8 misstate that. I apologize.</p> <p>9 MR. PATTON: That's why I</p> <p>10 objected to form.</p> <p>11 BY MR. DAVIS:</p> <p>12 Q. FMI reviewed its retailer</p> <p>13 members' expectations of suppliers with UEP?</p> <p>14 A. Yes.</p> <p>15 Q. And then if we move on to the</p> <p>16 next paragraph here, "Following the action of</p> <p>17 its Board of Directors, the FMI began a</p> <p>18 series of meetings with the producer</p> <p>19 community..." Right?</p> <p>20 A. Correct.</p> <p>21 Q. Among those meetings it lists,</p> <p>22 one, meetings with United Egg Producers. Is</p> <p>23 that right?</p> <p>24 A. Yes.</p> <p>25 Q. And the purpose, as expressed</p>	<p style="text-align: right;">Page 320</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Did FMI seek to have producer</p> <p>3 organizations, including UEP, adopt animal</p> <p>4 welfare guidelines that FMI could ultimately</p> <p>5 endorse?</p> <p>6 MR. PATTON: Object to the form.</p> <p>7 Misstates prior testimony.</p> <p>8 MR. WILDERS: Asked and</p> <p>9 answered.</p> <p>10 THE WITNESS: It wasn't a matter</p> <p>11 of those organizations adopting</p> <p>12 guidelines. They already had their</p> <p>13 own guidelines. We worked with these</p> <p>14 groups because they indicated they had</p> <p>15 guidelines and they were open and</p> <p>16 willing to share those guidelines with</p> <p>17 us to then review them and allow our</p> <p>18 experts to assess whether or not they</p> <p>19 could be accepted as is or if there</p> <p>20 were areas for improvement to develop</p> <p>21 best practices.</p> <p>22 BY MR. DAVIS:</p> <p>23 Q. In the event that there were</p> <p>24 areas for improvement to develop best</p> <p>25 practices as you just said, was it FMI's hope</p>
<p style="text-align: right;">Page 319</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 by you and Ms. Brown, is to share FMI's</p> <p>3 policy and program.</p> <p>4 A. Correct.</p> <p>5 Q. Is that right?</p> <p>6 A. Correct.</p> <p>7 Q. So was that something that</p> <p>8 FMI's members requested that it do?</p> <p>9 MR. WILDERS: Objection. Vague.</p> <p>10 Ambiguous.</p> <p>11 THE WITNESS: It was agreed and</p> <p>12 discussed that this would be part of a</p> <p>13 process that we would engage the</p> <p>14 various commodity groups and work</p> <p>15 jointly with them. That was</p> <p>16 understood that that would be one of</p> <p>17 our steps in this process.</p> <p>18 BY MR. DAVIS:</p> <p>19 Q. Why did FMI undertake that</p> <p>20 step?</p> <p>21 A. Because our members and FMI</p> <p>22 felt that the best way to achieve a</p> <p>23 successful outcome was to work with the</p> <p>24 commodity groups in collaboration on this</p> <p>25 project.</p>	<p style="text-align: right;">Page 321</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 that those areas for improvement would be</p> <p>3 resolved sufficiently for FMI to endorse that</p> <p>4 producer group's guidelines?</p> <p>5 A. Yes.</p> <p>6 MR. PATTON: Object to the form.</p> <p>7 THE WITNESS: I'm sorry. Yes,</p> <p>8 it was.</p> <p>9 BY MR. DAVIS:</p> <p>10 Q. Did FMI reach out to UEP as a</p> <p>11 producer organization that it discussed</p> <p>12 animal welfare guidelines with?</p> <p>13 MR. PATTON: Object to the form.</p> <p>14 THE WITNESS: Yes, FMI reached</p> <p>15 out to United Egg Producers to make</p> <p>16 them aware of what we were doing and</p> <p>17 to ask if they were interested in</p> <p>18 working with us on that.</p> <p>19 BY MR. DAVIS:</p> <p>20 Q. What was United Egg Producers'</p> <p>21 response to that, to FMI's overture?</p> <p>22 A. Their response was that they</p> <p>23 were very interested, and, in fact, they</p> <p>24 already had a guideline that they would like</p> <p>25 to share with us to review.</p>



<p style="text-align: right;">Page 322</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Did that meeting, in fact,</p> <p>3 occur?</p> <p>4 A. Explain what you mean by "that</p> <p>5 meeting." There were many meetings.</p> <p>6 Q. There were many meetings that</p> <p>7 then resulted from this overture by FMI?</p> <p>8 A. There were many meetings that</p> <p>9 followed to work collaboratively with UEP on</p> <p>10 reviewing their guidelines and discussing</p> <p>11 those items that became -- called the gaps or</p> <p>12 areas for improvement.</p> <p>13 Q. Who from FMI was involved in</p> <p>14 those meetings?</p> <p>15 A. Primarily myself and Karen</p> <p>16 Brown.</p> <p>17 Q. Who from UEP was involved in</p> <p>18 those meetings?</p> <p>19 A. Most of the meetings were with</p> <p>20 Al, Al Pope and Gene Gregory. And there was</p> <p>21 one time, perhaps more, I'm not sure, but I</p> <p>22 know at least one time when Al and Gene would</p> <p>23 bring in some members to also talk to us.</p> <p>24 Q. I'll show you what's been</p> <p>25 marked as Exhibit 28.</p>	<p style="text-align: right;">Page 324</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 the question.</p> <p>3 MR. BURKE: Could we get a Bates</p> <p>4 number?</p> <p>5 MR. DAVIS: Sure. It's</p> <p>6 MPS-00047338.</p> <p>7 THE WITNESS: I don't recall</p> <p>8 seeing this document before.</p> <p>9 BY MR. DAVIS:</p> <p>10 Q. Do you recall attending a</p> <p>11 meeting on or about December 13, 2001, with</p> <p>12 the individuals listed on this document?</p> <p>13 A. Not specifically.</p> <p>14 MR. WILDERS: I'm going to</p> <p>15 object. If she didn't receive the</p> <p>16 document and it's marked confidential,</p> <p>17 then you can't show it to her under</p> <p>18 the Kansas protective order.</p> <p>19 MR. DAVIS: Can we go off the</p> <p>20 record for a minute?</p> <p>21 VIDEOGRAPHER: Going off the</p> <p>22 record at the time of 3:53.</p> <p>23 - - -</p> <p>24 (A recess was taken.)</p> <p>25 - - -</p>
<p style="text-align: right;">Page 323</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 - - -</p> <p>3 (Exhibit H-28, Summary of</p> <p>4 Meeting with FMI-December 13, 2001,</p> <p>5 Bates MPS-00047338, was marked for</p> <p>6 identification.)</p> <p>7 - - -</p> <p>8 BY MR. DAVIS:</p> <p>9 Q. Dr. Hollingsworth, do you</p> <p>10 recognize this document?</p> <p>11 A. Not initially, no. If I have a</p> <p>12 chance to read it, perhaps I would.</p> <p>13 Q. Sure.</p> <p>14 MR. PATTON: I'll note that</p> <p>15 you're putting a confidential document</p> <p>16 in front of the witness produced by</p> <p>17 Midwest Poultry.</p> <p>18 MR. DAVIS: Sure, it's marked as</p> <p>19 regular confidential.</p> <p>20 MR. PATTON: But I still think</p> <p>21 that you have to comply with the</p> <p>22 protective order.</p> <p>23 MR. DAVIS: She certainly --</p> <p>24 they're notes from a meeting. She's</p> <p>25 listed as an attendee. I'll ask her</p>	<p style="text-align: right;">Page 325</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 VIDEOGRAPHER: Back on the video</p> <p>3 record. The time is 3:55.</p> <p>4 BY MR. DAVIS:</p> <p>5 Q. Dr. Hollingsworth, you can put</p> <p>6 that exhibit aside and turn back to</p> <p>7 Exhibit 24.</p> <p>8 A. All right.</p> <p>9 Q. If you turn to page 657, under</p> <p>10 "Joint programme," do you see the heading</p> <p>11 "Joint programme"?</p> <p>12 A. Yes, I do.</p> <p>13 Q. Then in that first paragraph</p> <p>14 toward the bottom it reads that "...in</p> <p>15 June 2001, the FMI and the NCCR joined their</p> <p>16 parallel efforts."</p> <p>17 Do you see that?</p> <p>18 A. Yes, I do.</p> <p>19 Q. What is NCCR?</p> <p>20 A. NCCR is another trade</p> <p>21 association, and it stands for the National</p> <p>22 Council of Chain Restaurants.</p> <p>23 Q. Whom do they represent?</p> <p>24 A. They primarily represent fast</p> <p>25 food or what are called quick service</p>

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<p style="text-align: right;">Page 326</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 restaurants.</p> <p>3 Q. Why is it that in June 2001 --</p> <p>4 A. Excuse me, I need to go back</p> <p>5 and clarify that. They also do have some</p> <p>6 members who were chain restaurants that do --</p> <p>7 are sit-down table restaurants. It's not</p> <p>8 just fast food.</p> <p>9 Q. Why is it that in June 2001 FMI</p> <p>10 and NCCR joined their parallel efforts?</p> <p>11 A. We had been discussing with</p> <p>12 both NCCR and the National Restaurant</p> <p>13 Association how we had hoped to approach this</p> <p>14 issue and the concern about animal welfare,</p> <p>15 and the NCCR informed us that they were doing</p> <p>16 something similar, and that after discussing</p> <p>17 with NCCR and some of their members,</p> <p>18 particularly Burger King and McDonald's, we</p> <p>19 realized we were taking a similar approach</p> <p>20 and it only made sense to put those together.</p> <p>21 Q. You go on to say that FMI and</p> <p>22 NCCR "...considered the advantages of a</p> <p>23 single industry approach."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 328</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 these are -- this is the science that</p> <p>3 supports them and, therefore, they wouldn't</p> <p>4 be told, no, this is the best practice or</p> <p>5 this is. It was trying to get one message on</p> <p>6 what is the best practice.</p> <p>7 Q. So the idea is that the</p> <p>8 retailers would come up with a consistent set</p> <p>9 of expectations. Is that right?</p> <p>10 MR. WILDERS: Objection.</p> <p>11 Misstates testimony.</p> <p>12 MR. PATTON: Objection.</p> <p>13 THE WITNESS: No, we were not</p> <p>14 coming up with a consistent set of</p> <p>15 expectations. What we wanted to do</p> <p>16 was to work with the producers so that</p> <p>17 we had agreement on a consistent set</p> <p>18 of what constitutes the best</p> <p>19 practices.</p> <p>20 BY MR. DAVIS:</p> <p>21 Q. I'm asking why it was that FMI</p> <p>22 and NCCR joined their efforts, FMI and NCCR</p> <p>23 consists of retailers or otherwise consumers</p> <p>24 of eggs?</p> <p>25 A. Right. And in that regard, it</p>
<p style="text-align: right;">Page 327</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. And then you list four of those</p> <p>3 advantages?</p> <p>4 A. Yes.</p> <p>5 Q. Were these advantages that FMI</p> <p>6 and NCCR considered?</p> <p>7 A. These were the advantages,</p> <p>8 among the advantages that we had discussed.</p> <p>9 Q. Were these advantages that were</p> <p>10 identified by FMI's staff and some of its</p> <p>11 members?</p> <p>12 A. These were primarily identified</p> <p>13 by FMI and NCCR and approved or accepted by</p> <p>14 our members.</p> <p>15 Q. The first reads -- well, I'll</p> <p>16 ask you, why is it that FMI and FMI's members</p> <p>17 considered a clear and consistent</p> <p>18 communication of animal welfare expectation</p> <p>19 to the animal producers to be an advantage of</p> <p>20 a single industry approach?</p> <p>21 A. We felt that the advantage was</p> <p>22 that there would not be conflicting</p> <p>23 information as to what was the best practice</p> <p>24 and that the animal producers would also be</p> <p>25 understanding that these are best practices,</p>	<p style="text-align: right;">Page 329</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 was so that FMI and NCCR were not telling</p> <p>3 suppliers different things about what is a</p> <p>4 best practice.</p> <p>5 Q. And so it was that the</p> <p>6 expectations of FMI and NCCR members were</p> <p>7 consistent as they were being expressed to</p> <p>8 your suppliers?</p> <p>9 MR. PATTON: Objection to form.</p> <p>10 MR. WILDERS: Objection to form.</p> <p>11 THE WITNESS: We were trying to</p> <p>12 achieve a single understanding about</p> <p>13 what is scientifically based best</p> <p>14 practices, and that there was</p> <p>15 agreement among the industry what that</p> <p>16 was.</p> <p>17 BY MR. DAVIS:</p> <p>18 Q. And FMI worked with NCCR so</p> <p>19 that the message across their members was</p> <p>20 consistent when it was expressed to</p> <p>21 suppliers?</p> <p>22 MR. WILDERS: Objection. Vague</p> <p>23 and ambiguous.</p> <p>24 BY MR. DAVIS:</p> <p>25 Q. I'm just repeating what you're</p>

<p style="text-align: right;">Page 330</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 saying.</p> <p>3 A. Yeah. I'm not sure when you</p> <p>4 say "the message," what message?</p> <p>5 Q. Well, their --</p> <p>6 A. I'm saying best practices and</p> <p>7 you're saying message.</p> <p>8 Q. I'll use best practices then.</p> <p>9 A. Okay.</p> <p>10 Q. FMI worked with NCCR so that</p> <p>11 its expectations were -- animal welfare best</p> <p>12 practices were consistently expressed to</p> <p>13 suppliers. Is that accurate?</p> <p>14 A. I would say that is -- yes,</p> <p>15 that seems accurate.</p> <p>16 Q. The second advantage that you</p> <p>17 list is "a single programme based on science</p> <p>18 and designed to support continuous</p> <p>19 improvement." Why was that considered to be</p> <p>20 an advantage of the joint parallel effort</p> <p>21 between FMI and NCCR?</p> <p>22 A. Well, again, we felt it only</p> <p>23 made sense that if we were using the same</p> <p>24 experts and looking at the same set of</p> <p>25 guidelines, it only made sense that we had</p>	<p style="text-align: right;">Page 332</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 individuals coming up with best practices</p> <p>3 that were not based on science, but rather</p> <p>4 pushed by such things as activist groups.</p> <p>5 Q. You consider that to be</p> <p>6 market-driven competition?</p> <p>7 MR. WILDERS: Objection. Asked</p> <p>8 and answered.</p> <p>9 THE WITNESS: We considered the</p> <p>10 situation between companies like</p> <p>11 McDonald's and Burger King to be</p> <p>12 driven and pressure put on them to do</p> <p>13 something because PETA asked for it</p> <p>14 rather than what was based on science.</p> <p>15 BY MR. DAVIS:</p> <p>16 Q. Did FMI and its members think</p> <p>17 that by working with NCCR, they could help to</p> <p>18 avoid being dragged into a similar situation?</p> <p>19 A. We felt that --</p> <p>20 MR. WILDERS: Objection. Calls</p> <p>21 for speculation.</p> <p>22 THE WITNESS: I'm sorry.</p> <p>23 BY MR. DAVIS:</p> <p>24 Q. You can go ahead.</p> <p>25 A. We felt that there was a</p>
<p style="text-align: right;">Page 331</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 one set and that there was agreement among</p> <p>3 the experts, the suppliers and retailers that</p> <p>4 these were the best practices.</p> <p>5 Q. You go on to write that</p> <p>6 "avoidance of market-driven competition on an</p> <p>7 issue that affected all the food animal</p> <p>8 industries" is an advantage. What do you</p> <p>9 mean by "avoidance of market-driven</p> <p>10 competition"?</p> <p>11 A. That, again, was the issue</p> <p>12 between McDonald's and Burger King where they</p> <p>13 were being driven primarily by PETA in</p> <p>14 competing with each other on a set of</p> <p>15 guidelines that were not necessarily science</p> <p>16 based, but they were being driven by pressure</p> <p>17 from an activist group.</p> <p>18 Q. So why did FMI and its members</p> <p>19 consider the avoidance of market-driven</p> <p>20 competition on this issue to be an advantage</p> <p>21 of a single industry approach?</p> <p>22 A. Because we believed that</p> <p>23 working together with the experts, we could</p> <p>24 come to an agreement on what were best</p> <p>25 practices, and we didn't need to have</p>	<p style="text-align: right;">Page 333</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 collaborative approach, that it was to</p> <p>3 everyone's benefit to identify universally</p> <p>4 what were the best scientific best practices.</p> <p>5 Q. But I'm asking, this reference</p> <p>6 is specifically FMI joining its efforts with</p> <p>7 NCCR, and lists these as advantages. So is</p> <p>8 that an advantage of FMI joining its efforts</p> <p>9 with NCCR?</p> <p>10 A. In the sense that, yes, we felt</p> <p>11 that if food service restaurants and</p> <p>12 retailers were all working together, then it</p> <p>13 was good for the entire food supply chain.</p> <p>14 It was FMI's members and NCCR's members who</p> <p>15 would all benefit from having an agreed upon</p> <p>16 what is best practices.</p> <p>17 Q. Would it also at all result in</p> <p>18 FMI's members sharing in the cost of animal</p> <p>19 welfare?</p> <p>20 MR. WILDERS: Objection. Lacks</p> <p>21 foundation. Calls for speculation.</p> <p>22 THE WITNESS: I'm not</p> <p>23 understanding. The cost to FMI?</p> <p>24 BY MR. DAVIS:</p> <p>25 Q. Did FMI's members ever express</p>

<p style="text-align: right;">Page 334</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 any concern about the cost of animal welfare</p> <p>3 being borne by the entire retail food</p> <p>4 industry?</p> <p>5 A. I don't remember it being a</p> <p>6 discussion among the retailers about the cost</p> <p>7 to them.</p> <p>8 Q. You recall no discussions among</p> <p>9 retailers about that topic?</p> <p>10 A. As we previously stated, the</p> <p>11 retailers and the chain restaurants did not</p> <p>12 want food to be not available, they wanted</p> <p>13 there to be a market for these products and</p> <p>14 for consumers to be satisfied with the</p> <p>15 products, and it was their intent to be sure</p> <p>16 that we could tell the consumer that there</p> <p>17 were a set of best practices that were being</p> <p>18 implemented across the board.</p> <p>19 Q. Were costs of doing so a topic</p> <p>20 that was discussed by FMI members?</p> <p>21 MR. PATTON: Objection. Asked</p> <p>22 and answered.</p> <p>23 THE WITNESS: Not specifically,</p> <p>24 no.</p> <p>25 BY MR. DAVIS:</p>	<p style="text-align: right;">Page 336</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 do we develop them, that that would be useful</p> <p>3 for consumers and the media to understand</p> <p>4 what we were doing.</p> <p>5 Q. Look at the very bottom of this</p> <p>6 page, the bottom of the second column, you</p> <p>7 write that "The FMI and NCCR believe their</p> <p>8 combined efforts will further develop and</p> <p>9 support industry policies strengthening</p> <p>10 animal welfare and will support the following</p> <p>11 specific goals." Then you go on to list five</p> <p>12 goals. Is that right?</p> <p>13 A. Yes.</p> <p>14 Q. The first is that "consistent</p> <p>15 expectations across the USA food retail</p> <p>16 sector." Why was having consistent</p> <p>17 expectations across the USA food retail</p> <p>18 sector a goal for FMI and FMI members?</p> <p>19 A. Because having consistent</p> <p>20 expectations would avoid confusion.</p> <p>21 Q. The next is "implementation of</p> <p>22 practicable and obtainable animal welfare</p> <p>23 guidelines based on science." Why was that a</p> <p>24 goal for FMI and its members?</p> <p>25 A. I'm having trouble, it seems</p>
<p style="text-align: right;">Page 335</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Generally?</p> <p>3 A. There were times when the trade</p> <p>4 organization would say if we don't space this</p> <p>5 out over time, it may cost us. And as I</p> <p>6 mentioned earlier, there were discussions</p> <p>7 also about how animal welfare best practices</p> <p>8 can actually save costs. So there were</p> <p>9 general discussions about costs may be</p> <p>10 incurred, may be saved, but they were not a</p> <p>11 motivating factor in developing the</p> <p>12 guidelines.</p> <p>13 Q. The last advantage here that</p> <p>14 you list is "providing one voice when</p> <p>15 discussing animal welfare with consumers, the</p> <p>16 media, activists and the general public."</p> <p>17 Why is that an advantage of FMI and NCCR</p> <p>18 joining their parallel efforts?</p> <p>19 A. We always feel that, especially</p> <p>20 with consumers in the media, if there's a</p> <p>21 consistent message, then they don't become</p> <p>22 confused over what is the industry doing, how</p> <p>23 is the industry dealing with animal welfare</p> <p>24 issues, and we felt having a consistent</p> <p>25 position on what are best practices and how</p>	<p style="text-align: right;">Page 337</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 obvious to me, but the point was if we had a</p> <p>3 set of guidelines based on science, then we</p> <p>4 could explain them to the public, the</p> <p>5 industry would understand how we develop them</p> <p>6 and then they could be implemented because</p> <p>7 they were practical and they could be</p> <p>8 attained.</p> <p>9 Q. Next why is having "a</p> <p>10 measurable verification process" a goal of</p> <p>11 FMI and its members?</p> <p>12 A. That was based on -- in</p> <p>13 previous documents we noted that the animal</p> <p>14 welfare experts felt that there had to be</p> <p>15 some way to verify that people were actually</p> <p>16 using the guidelines and they understood them</p> <p>17 and were implementing them properly. So we</p> <p>18 felt that there had to be some way to say</p> <p>19 they're not just guidelines on paper, but</p> <p>20 there's a way to show that they're actually</p> <p>21 being used.</p> <p>22 Q. Would that be an audit?</p> <p>23 A. An audit would be one type of</p> <p>24 verification process.</p> <p>25 Q. And a measurable verification</p>

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<p style="text-align: right;">Page 338</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 process. Right?</p> <p>3 A. Yes.</p> <p>4 Q. Next you list "an ongoing</p> <p>5 advisory council of third party, independent</p> <p>6 animal welfare experts." Why was that a</p> <p>7 goal?</p> <p>8 A. We felt that because we wanted</p> <p>9 to have the best science and base it on</p> <p>10 science, that we had to have experts. And we</p> <p>11 also felt that it was important that this</p> <p>12 wasn't just a one time thing, that it was a</p> <p>13 plan for continuous improvement and,</p> <p>14 therefore, we wanted that to be an ongoing</p> <p>15 process.</p> <p>16 Q. Lastly, you write that</p> <p>17 "improved communications across the supply</p> <p>18 chain on animal welfare issues" is a goal.</p> <p>19 Why was that a goal for FMI and its members?</p> <p>20 A. Again, to primarily avoid</p> <p>21 confusion and misunderstanding as to what</p> <p>22 would be a guideline and what would be a best</p> <p>23 practice.</p> <p>24 Q. Did FMI and its members endorse</p> <p>25 these goals?</p>	<p style="text-align: right;">Page 340</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. If you turn to Exhibit 26. You</p> <p>3 said that this was notes from a discussion, I</p> <p>4 believe, with members of the Member Advisory</p> <p>5 Committee and other members interested in</p> <p>6 animal welfare issues. Is that right?</p> <p>7 A. Yes, this was a follow-up</p> <p>8 communication to them following the meeting</p> <p>9 we had in Chicago.</p> <p>10 Q. If you turn to the second page</p> <p>11 of this document, under "FLIP CHART NOTES,"</p> <p>12 are these notes from what was discussed</p> <p>13 during that meeting in Chicago?</p> <p>14 A. Yes, they are.</p> <p>15 Q. And under "GOALS," it lists six</p> <p>16 different items. Are those all items that</p> <p>17 were discussed during this meeting in</p> <p>18 Chicago?</p> <p>19 A. They would have been items that</p> <p>20 were put on the flip charts either for</p> <p>21 discussion or just as part of the discussion</p> <p>22 of that meeting.</p> <p>23 Q. So consistency across all</p> <p>24 retail was something that was discussed</p> <p>25 during that meeting?</p>
<p style="text-align: right;">Page 339</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. I don't know that there's</p> <p>3 actually a document that identifies these as</p> <p>4 the goals of the program, but these were the</p> <p>5 goals that were discussed and that were the</p> <p>6 driving focus for why we were even doing this</p> <p>7 partnership together.</p> <p>8 Q. Is that a discussion that staff</p> <p>9 had with the Member Advisory Committee?</p> <p>10 A. It probably would have been</p> <p>11 discussed with them and with individual</p> <p>12 members.</p> <p>13 Q. And the board?</p> <p>14 A. I doubt that the board would</p> <p>15 get into this much detail as a full board.</p> <p>16 Their role really was to set the policy and</p> <p>17 then to let us take that policy and implement</p> <p>18 it.</p> <p>19 Q. Do you recall any discussions</p> <p>20 with specific members about these goals?</p> <p>21 A. Not specifically, no.</p> <p>22 Q. So you couldn't say which</p> <p>23 members, if any specific members that had</p> <p>24 discussions about these goals?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 341</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. The idea of having a consistent</p> <p>3 set of science-based guidelines was discussed</p> <p>4 as opposed to individual company requirements</p> <p>5 for guidelines.</p> <p>6 Q. As was having a measurable</p> <p>7 audit process?</p> <p>8 A. That was discussed. It was</p> <p>9 still an open part of the discussion. We</p> <p>10 weren't sure how we would do that, but it was</p> <p>11 part of the discussion.</p> <p>12 Q. This was a discussion that was</p> <p>13 had only among producers and FMI members.</p> <p>14 Correct?</p> <p>15 A. No, I believe the NCCR members</p> <p>16 were also present at the Chicago meeting. I</p> <p>17 think there's some information as to who was</p> <p>18 at that meeting. I believe some of NCCR</p> <p>19 members were there.</p> <p>20 Q. Were there any members --</p> <p>21 individuals from the producer community at</p> <p>22 this meeting?</p> <p>23 A. To my knowledge, no.</p> <p>24 Q. So topics like having a</p> <p>25 measurable audit process were being discussed</p>

<p style="text-align: right;">Page 342</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 by retailers outside of any discussions with</p> <p>3 the producer community?</p> <p>4 A. These were listed as goals that</p> <p>5 we wanted to further explore, yes.</p> <p>6 Q. When you say "we," you mean?</p> <p>7 A. The attendees at that meeting.</p> <p>8 Q. I'll show you what's been</p> <p>9 marked as Exhibit 29.</p> <p>10 - - -</p> <p>11 (Exhibit H-29, Interim Report</p> <p>12 FMI-NCCR Animal Welfare Program</p> <p>13 February 15, 2002, Bates FMI-000245 -</p> <p>14 FMI-000249, was marked for</p> <p>15 identification.)</p> <p>16 - - -</p> <p>17 BY MR. DAVIS:</p> <p>18 Q. Do you recognize Exhibit 29?</p> <p>19 A. Yes, I do.</p> <p>20 Q. What is this document? What is</p> <p>21 this document?</p> <p>22 A. This is an interim report that</p> <p>23 was produced by FMI and NCCR to clarify and</p> <p>24 update where we were in the process of</p> <p>25 developing this program.</p>	<p style="text-align: right;">Page 344</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 timetable because they cannot be accomplished</p> <p>3 immediately."</p> <p>4 What do you mean or what does</p> <p>5 that -- those sentences mean?</p> <p>6 A. If we used the UEP example, the</p> <p>7 UEP had told us that they could not</p> <p>8 immediately implement some of the best</p> <p>9 practices that were recommended by the</p> <p>10 experts, that what they needed was time to</p> <p>11 phase them in because they were economically</p> <p>12 not reasonable to do immediately.</p> <p>13 Q. The next sentence there says,</p> <p>14 "Some areas are still being researched to</p> <p>15 confirm that changes will enhance, not</p> <p>16 hinder, animal well-being."</p> <p>17 Is that right?</p> <p>18 A. Yes.</p> <p>19 Q. What exactly does that mean?</p> <p>20 A. Not only for UEP, but in other</p> <p>21 areas, there were some recommendations from</p> <p>22 the advisors on changes, but the</p> <p>23 organizations would say they needed more</p> <p>24 science to show that it, in fact, was to the</p> <p>25 benefit of animal welfare to make those</p>
<p style="text-align: right;">Page 343</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Do you know who drafted it?</p> <p>3 A. I believe it was drafted by</p> <p>4 Karen Brown.</p> <p>5 Q. Why was this report created?</p> <p>6 A. It is part of our normal policy</p> <p>7 to keep members apprised and to keep a record</p> <p>8 of what kinds of progress we made on</p> <p>9 projects.</p> <p>10 Q. If you turn to Exhibit 13. Is</p> <p>11 Exhibit 13 a subsequent one of these reports?</p> <p>12 MR. PATTON: Which exhibit are</p> <p>13 you asking about?</p> <p>14 MR. DAVIS: 13.</p> <p>15 THE WITNESS: Yes. This is also</p> <p>16 a report on the program.</p> <p>17 BY MR. DAVIS:</p> <p>18 Q. In the second paragraph, the</p> <p>19 introduction on Exhibit 13, it reads that</p> <p>20 some recommendations -- the front page there,</p> <p>21 the second paragraph.</p> <p>22 A. Yes, I see it.</p> <p>23 Q. "Some recommendations contained</p> <p>24 within this report have economic</p> <p>25 implications. Some require an implementation</p>	<p style="text-align: right;">Page 345</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 changes, and we also agree that to make some</p> <p>3 changes we had to be able to justify what was</p> <p>4 the benefit to the animals to do that.</p> <p>5 MR. DAVIS: Can we go off the</p> <p>6 record a minute?</p> <p>7 VIDEOGRAPHER: Going off the</p> <p>8 record. The time of 4:18.</p> <p>9 - - -</p> <p>10 (A recess was taken.)</p> <p>11 - - -</p> <p>12 VIDEOGRAPHER: Back on the</p> <p>13 record. The time of 4:24.</p> <p>14 - - -</p> <p>15 (Exhibits H-30, January 2003</p> <p>16 Report FMI-NCCR Animal Welfare</p> <p>17 Program, Bates FMI-000001 -</p> <p>18 FMI-000014; and H-31, June 2003 Report</p> <p>19 FMI-NCCR Animal Welfare Program, Bates</p> <p>20 FMI-000105 - FMI-000110, were marked</p> <p>21 for identification.)</p> <p>22 - - -</p> <p>23 BY MR. DAVIS:</p> <p>24 Q. Dr. Hollingsworth, I'm going to</p> <p>25 hand you what's been marked as Exhibits 30</p>

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<p style="text-align: right;">Page 346</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 and 31, and ask you if Exhibits 30 and 31 are</p> <p>3 reports similar to Exhibits 29 and 13 just</p> <p>4 that come later chronologically?</p> <p>5 A. Yes.</p> <p>6 Q. Now, are Exhibits 29, 30, 31,</p> <p>7 and 13 all documents that were created in the</p> <p>8 normal course of FMI's business?</p> <p>9 A. Yes.</p> <p>10 Q. And they were created</p> <p>11 contemporaneously with the dates that are</p> <p>12 reflected on them?</p> <p>13 A. Yes.</p> <p>14 Q. And with what's being described</p> <p>15 in those documents?</p> <p>16 A. Yes.</p> <p>17 Q. These have been maintained by</p> <p>18 FMI in the ordinary course of FMI's business?</p> <p>19 A. Yes.</p> <p>20 - - -</p> <p>21 (Exhibits H-32, Status FMI-NCCR</p> <p>22 Animal Welfare Guidelines Updated</p> <p>23 October 2004, Bates FMI-000077 &amp;</p> <p>24 FMI-000078; H-33, Status FMI-NCCR</p> <p>25 Animal Welfare Guidelines Updated</p>	<p style="text-align: right;">Page 348</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Bates numbers in one second. 30 would</p> <p>3 have been FMI 1 through 14; and 31 was</p> <p>4 starting with FMI 105.</p> <p>5 MR. PATTON: And 32 is 077?</p> <p>6 MR. DAVIS: 32 is 077. 33 is</p> <p>7 75. 34 is 76. And 35 is 4436.</p> <p>8 MS. ANDERSON: Maybe you can</p> <p>9 just read them, the Bates range of</p> <p>10 each exhibit into the record.</p> <p>11 MR. DAVIS: These are all</p> <p>12 one-page exhibits.</p> <p>13 MS. ANDERSON: What about the</p> <p>14 stapled ones? Read it in, please.</p> <p>15 MR. DAVIS: Going back,</p> <p>16 Exhibit 30 is FMI 1 through 14.</p> <p>17 Exhibit 31 starts with FMI 105. I</p> <p>18 don't have the end Bates numbers.</p> <p>19 MS. ANDERSON: It's 110.</p> <p>20 MR. DAVIS: 105 to 110.</p> <p>21 Exhibit 32 is FMI 77. Exhibit 33 is</p> <p>22 FMI 75.</p> <p>23 MS. ANDERSON: Exhibit 32 is 77</p> <p>24 through 78. Right?</p> <p>25 MS. SUMNER: Yes.</p>
<p style="text-align: right;">Page 347</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 February 2005, Bates FMI-000075; H-34,</p> <p>3 Status FMI-NCCR Animal Welfare</p> <p>4 Guidelines Updated March 2007, Bates</p> <p>5 FMI-000076; and H-35, Status FMI-NCCR</p> <p>6 Animal Welfare Guidelines Updated May</p> <p>7 2008, Bates FMI-004436, were marked</p> <p>8 for identification.)</p> <p>9 - - -</p> <p>10 BY MR. DAVIS:</p> <p>11 Q. You could put those aside.</p> <p>12 I'm going to hand you documents</p> <p>13 that have been marked 32, 33, 34, 35.</p> <p>14 MR. PATTON: Can you tell us</p> <p>15 which ones they are?</p> <p>16 MR. BARNES: I'm going to hand</p> <p>17 you 32.</p> <p>18 MR. PATTON: June 2003 report,</p> <p>19 is that --</p> <p>20 MS. ANDERSON: Is that 30?</p> <p>21 MR. PATTON: -- 30? That's what</p> <p>22 I'm asking.</p> <p>23 MS. ANDERSON: Was this 30 or</p> <p>24 31?</p> <p>25 MR. DAVIS: I'll tell you the</p>	<p style="text-align: right;">Page 349</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 MR. DAVIS: 77 through 78, yes.</p> <p>3 Exhibit 33 is FMI 75.</p> <p>4 Exhibit 34 is FMI 76. And Exhibit 35</p> <p>5 is FMI 4436.</p> <p>6 BY MR. DAVIS:</p> <p>7 Q. Dr. Hollingsworth, do you</p> <p>8 recognize Exhibits 32 through 35?</p> <p>9 A. Yes, I do.</p> <p>10 Q. What are these documents?</p> <p>11 A. These were status reports that</p> <p>12 indicated where we were in the process for</p> <p>13 each of the organizations' guidelines on</p> <p>14 endorsing them or acknowledging that they, in</p> <p>15 fact, had met the best practices as per our</p> <p>16 expert advisors.</p> <p>17 Q. Were these documents created by</p> <p>18 FMI in the normal course of its business</p> <p>19 activities?</p> <p>20 A. Yes, they were.</p> <p>21 Q. And were these maintained by</p> <p>22 FMI in the ordinary course of business?</p> <p>23 MR. WILDERS: Objection. Lack</p> <p>24 of foundation.</p> <p>25 THE WITNESS: Yes.</p>

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<p style="text-align: right;">Page 350</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. DAVIS:</p> <p>3 Q. Were these documents created by</p> <p>4 FMI contemporaneously with the dates that are</p> <p>5 reflected on them?</p> <p>6 A. Yes, they were.</p> <p>7 Q. If you turn to Exhibit 34.</p> <p>8 A. Yes.</p> <p>9 Q. Does Exhibit 34 demonstrate</p> <p>10 that as of March 2007 there were no points of</p> <p>11 difference with the UEP guidelines?</p> <p>12 A. Yes, that is what it says.</p> <p>13 Q. You can put those aside.</p> <p>14 Dr. Hollingsworth, I'll show</p> <p>15 you what's been marked as Exhibit 36. It</p> <p>16 bears Bates range UE0178561 through 62.</p> <p>17 - - -</p> <p>18 (Exhibit H-36, 12/11/01 Letter,</p> <p>19 Bates UE0178561 &amp; UE0178562, was</p> <p>20 marked for identification.)</p> <p>21 - - -</p> <p>22 BY MR. DAVIS:</p> <p>23 Q. Is Exhibit AA a letter from Bob</p> <p>24 Krouse and Al Pope to FMI?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 352</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 approximately 50%."</p> <p>3 Do you see that?</p> <p>4 A. Yes, I do.</p> <p>5 Q. Do you recall UEP reducing</p> <p>6 their proposed phase-in for cage space</p> <p>7 requirements by approximately 50 percent?</p> <p>8 A. In our discussions with them in</p> <p>9 their guidelines, they originally proposed</p> <p>10 ten years to increase cage space, and they</p> <p>11 came back with a proposal to make changes in</p> <p>12 five years.</p> <p>13 Q. Was that in response to a</p> <p>14 concern expressed by FMI?</p> <p>15 A. It was a concern expressed by</p> <p>16 the expert groups. The expert advisors.</p> <p>17 Q. By FMI's expert advisors?</p> <p>18 A. Yes.</p> <p>19 Q. So if you'll turn now back to</p> <p>20 Exhibit 9. On the top of the Exhibit 9 in a</p> <p>21 box there, it says, "It is critically</p> <p>22 important that FMI endorse UEP's animal</p> <p>23 welfare guidelines in order to meet the</p> <p>24 proposed schedule of implementation. Time is</p> <p>25 of the essence."</p>
<p style="text-align: right;">Page 351</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 MR. WILDERS: I assume you're</p> <p>3 waiving the confidential designation?</p> <p>4 MR. PATTON: Exhibit AA?</p> <p>5 MR. DAVIS: Exhibit 36, excuse</p> <p>6 me.</p> <p>7 BY MR. DAVIS:</p> <p>8 Q. Was this letter received by FMI</p> <p>9 from UEP?</p> <p>10 A. I don't know, but it says here</p> <p>11 it was addressed to Karen Brown.</p> <p>12 Q. Do you have any reason to think</p> <p>13 that it was not?</p> <p>14 MR. PATTON: Object. Calls for</p> <p>15 speculation.</p> <p>16 THE WITNESS: I have no reason</p> <p>17 to think that it was not sent. I</p> <p>18 believe it was.</p> <p>19 BY MR. DAVIS:</p> <p>20 Q. If you look at the first</p> <p>21 heading under where it says "Phase-in."</p> <p>22 A. I'm sorry, under where?</p> <p>23 Q. Under "Phase-in," it says, "a</p> <p>24 'Fast Track' revised implementation program</p> <p>25 reduces the originally Proposed Phase-in by</p>	<p style="text-align: right;">Page 353</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. Is the proposed schedule of</p> <p>5 implementation the cage space phase-in that</p> <p>6 FMI -- that was referenced earlier?</p> <p>7 MR. PATTON: Object to the form.</p> <p>8 No foundation.</p> <p>9 MR. WILDERS: Calls for</p> <p>10 speculation.</p> <p>11 THE WITNESS: That would not be</p> <p>12 my understanding.</p> <p>13 BY MR. DAVIS:</p> <p>14 Q. That's not your understanding?</p> <p>15 A. That is not my understanding of</p> <p>16 what they meant here.</p> <p>17 Q. What's your understanding of</p> <p>18 what the proposed schedule of implementation</p> <p>19 was here?</p> <p>20 MR. PATTON: No foundation.</p> <p>21 THE WITNESS: I don't know what</p> <p>22 specific they were talking about</p> <p>23 implementation, but they do not say</p> <p>24 anything here about the change in the</p> <p>25 cage space.</p>

<p style="text-align: right;">Page 354</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. DAVIS:</p> <p>3 Q. So do you know what's being</p> <p>4 referred to in that sentence?</p> <p>5 MR. PATTON: In which exhibit?</p> <p>6 MR. DAVIS: On Exhibit 9, the</p> <p>7 sentence that I just read.</p> <p>8 THE WITNESS: No, I don't.</p> <p>9 BY MR. DAVIS:</p> <p>10 Q. Put that aside.</p> <p>11 If you turn back to Exhibit 24,</p> <p>12 it's the article that you and Ms. Brown</p> <p>13 wrote.</p> <p>14 A. Yes.</p> <p>15 Q. On page 658, under</p> <p>16 "Verification programme" you write, "The FMI</p> <p>17 and the NCCR members requested that the two</p> <p>18 organizations develop a voluntary,</p> <p>19 independent verification programme based on</p> <p>20 third-party audits."</p> <p>21 Do you see that?</p> <p>22 A. No. Is it in the first</p> <p>23 paragraph under verification?</p> <p>24 Q. It is. It starts with the</p> <p>25 second sentence.</p>	<p style="text-align: right;">Page 356</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 auditing capability, in all cases it</p> <p>3 was to look out to some third party.</p> <p>4 BY MR. DAVIS:</p> <p>5 Q. And how was it that that audit</p> <p>6 was developed?</p> <p>7 A. The audits that we eventually</p> <p>8 used were developed by using an outside</p> <p>9 company, a third party who were given the</p> <p>10 guidance, the guidelines, and then asked to</p> <p>11 turn that guideline into essentially a</p> <p>12 checklist.</p> <p>13 Q. I'll hand you what's been</p> <p>14 marked as Exhibit 37.</p> <p>15 - - -</p> <p>16 (Exhibit H-37, Comparison of</p> <p>17 Audit Tools (Revised 1/7/2002), Bates</p> <p>18 FMI-001363 - FMI-001377, was marked</p> <p>19 for identification.)</p> <p>20 - - -</p> <p>21 BY MR. DAVIS:</p> <p>22 Q. Do you recognize Exhibit 37?</p> <p>23 A. Yes, I do.</p> <p>24 Q. What is this document?</p> <p>25 A. This was a document looking and</p>
<p style="text-align: right;">Page 355</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes, I see it. I'm sorry.</p> <p>3 Q. Is that accurate, did FMI and</p> <p>4 NCCR members request that their organizations</p> <p>5 develop verification programs based on</p> <p>6 third-party audits?</p> <p>7 A. Yes, in discussions with them,</p> <p>8 they brought that up as a concern that they</p> <p>9 had and asked us to look at it.</p> <p>10 Q. And is there an audit component</p> <p>11 to the FMI animal welfare guidelines?</p> <p>12 A. Again, there are not FMI</p> <p>13 guidelines, animal welfare guidelines, these</p> <p>14 were the commodity group guidelines. But FMI</p> <p>15 and NCCR did proceed with developing an audit</p> <p>16 program.</p> <p>17 Q. And initially who did FMI and</p> <p>18 its members believe should run that audit</p> <p>19 program?</p> <p>20 MR. WILDERS: Objection. Calls</p> <p>21 for speculation.</p> <p>22 THE WITNESS: There were several</p> <p>23 ideas proposed for how such a program</p> <p>24 might be implemented, but because</p> <p>25 neither FMI nor NCCR themselves have</p>	<p style="text-align: right;">Page 357</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 making a comparison between the audit tools,</p> <p>3 they're called tools, it's an audit process</p> <p>4 and form that was used by United Egg</p> <p>5 Producers versus the one that FMI and NCCR</p> <p>6 had developed by an outside firm called SES.</p> <p>7 Q. Did FMI prepare this document?</p> <p>8 A. No, they did not.</p> <p>9 Q. Who prepared this document?</p> <p>10 A. I believe it was done by SES.</p> <p>11 Q. If you turn to page 3 under</p> <p>12 "HOUSING and SPACE ALLOWANCE."</p> <p>13 A. Yes.</p> <p>14 Q. And then the paragraph that</p> <p>15 starts, "This set of questions...", do you</p> <p>16 see that?</p> <p>17 A. Yes.</p> <p>18 Q. The third sentence says, "In</p> <p>19 the NCCR/FMI audit, these questions are</p> <p>20 considered to be critical and therefore</p> <p>21 assigned the highest point values in the</p> <p>22 audit."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Is that related to the housing</p>

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<p style="text-align: right;">Page 358</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 and space allowance provisions that are</p> <p>3 referenced above?</p> <p>4 A. That's what it's referring to.</p> <p>5 Q. Is that accurate, were those</p> <p>6 questions considered critical and, therefore,</p> <p>7 assigned the highest point values in the</p> <p>8 audit?</p> <p>9 A. This is explaining what was</p> <p>10 currently at that time in the audit. They</p> <p>11 were given a high point value within the</p> <p>12 audits for both the audit that SES had</p> <p>13 developed and also in the UEP audit.</p> <p>14 Q. Is it that they were given high</p> <p>15 point values because they were considered to</p> <p>16 be critical?</p> <p>17 MR. PATTON: Object to the form.</p> <p>18 MR. WILDERS: Asked and</p> <p>19 answered.</p> <p>20 THE WITNESS: That is the</p> <p>21 assessment that SES provided to us.</p> <p>22 BY MR. DAVIS:</p> <p>23 Q. Does FMI agree with that</p> <p>24 assessment?</p> <p>25 A. We believe that, yeah. I would</p>	<p style="text-align: right;">Page 360</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. They came up with point values</p> <p>3 based on input from the experts and what was</p> <p>4 in the guidance document.</p> <p>5 Q. Did FMI approve of those point</p> <p>6 values?</p> <p>7 MR. WILDERS: Objection. Vague</p> <p>8 and ambiguous.</p> <p>9 THE WITNESS: I don't know.</p> <p>10 BY MR. DAVIS:</p> <p>11 Q. And SES, according to the</p> <p>12 feedback that they got, believed that</p> <p>13 questions regarding space allowance were</p> <p>14 considered to be critical and they,</p> <p>15 therefore, assigned them the highest point</p> <p>16 values in the audit. Is that accurate?</p> <p>17 MR. PATTON: Objection. Asked</p> <p>18 and answered.</p> <p>19 MR. WILDERS: Calls for</p> <p>20 speculation.</p> <p>21 THE WITNESS: That is what SES</p> <p>22 says here.</p> <p>23 BY MR. DAVIS:</p> <p>24 Q. Do you know if that's accurate?</p> <p>25 MR. GREEN: Object to the form</p>
<p style="text-align: right;">Page 359</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 say that in this case we believe that housing</p> <p>3 and space allowance was one of the key</p> <p>4 components of an animal welfare guideline</p> <p>5 and, therefore, they had to be measured and</p> <p>6 assigned a point value.</p> <p>7 Q. But it says that that's why it</p> <p>8 was assigned the highest point values in the</p> <p>9 audit. Do you agree with that statement?</p> <p>10 MR. WILDERS: Objection. Asked</p> <p>11 and answered.</p> <p>12 THE WITNESS: I'm not sure if</p> <p>13 they were the highest, but if it means</p> <p>14 here that there -- I believe in the</p> <p>15 audit there were categories of points</p> <p>16 like one, two and three. There may</p> <p>17 have been multiple issues that rated</p> <p>18 three. But they were saying this is</p> <p>19 among the highest point values.</p> <p>20 BY MR. DAVIS:</p> <p>21 Q. Who developed the point values,</p> <p>22 was it FMI?</p> <p>23 A. SES.</p> <p>24 Q. SES came up with its own point</p> <p>25 values?</p>	<p style="text-align: right;">Page 361</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 of the question.</p> <p>3 THE WITNESS: That is what SES</p> <p>4 said, so I have to believe that is</p> <p>5 what SES says they have done.</p> <p>6 BY MR. DAVIS:</p> <p>7 Q. I'll show you what's been</p> <p>8 marked as Exhibit 38.</p> <p>9 - - -</p> <p>10 (Exhibit H-38, Welfare best</p> <p>11 practices emerge article, was marked</p> <p>12 for identification.)</p> <p>13 - - -</p> <p>14 BY MR. DAVIS:</p> <p>15 Q. Dr. Hollingsworth, do you</p> <p>16 recognize this document?</p> <p>17 A. I do.</p> <p>18 Q. What is this document?</p> <p>19 A. This was an article based on an</p> <p>20 interview I did with Feedstuffs Magazine.</p> <p>21 Q. Do you see down at the very</p> <p>22 bottom of column one --</p> <p>23 A. Yes.</p> <p>24 Q. -- this quotes you as saying,</p> <p>25 "'We're often used as a catalyst to bring</p>

<p style="text-align: right;">Page 362</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 about some kind of change in the food</p> <p>3 industry."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Is that an accurate quote?</p> <p>7 A. Yes, it is.</p> <p>8 Q. Is it accurate to say that FMI</p> <p>9 acted as a catalyst for bringing about</p> <p>10 changes in animal welfare?</p> <p>11 MR. WILDERS: Objection. Lacks</p> <p>12 foundation. Calls for speculation.</p> <p>13 THE WITNESS: I believe that</p> <p>14 that was one of the things that we</p> <p>15 felt we could accomplish working</p> <p>16 jointly with the industry.</p> <p>17 BY MR. DAVIS:</p> <p>18 Q. That would include animal</p> <p>19 welfare for egg laying hens?</p> <p>20 A. Yes.</p> <p>21 Q. You go on to talk about focus</p> <p>22 groups that FMI conducted with consumers in</p> <p>23 2001?</p> <p>24 A. Yes.</p> <p>25 Q. You say that consumers</p>	<p style="text-align: right;">Page 364</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes, I do.</p> <p>3 Q. Is that accurate?</p> <p>4 MR. WILDERS: Objection. Vague</p> <p>5 and ambiguous.</p> <p>6 BY MR. DAVIS:</p> <p>7 Q. Did consumers "expect retail</p> <p>8 stores to get involved in this issue"?</p> <p>9 A. The consumer groups told us</p> <p>10 that if they were aware that a retail store</p> <p>11 had information about animal abuse and did</p> <p>12 nothing, that they would find that a problem</p> <p>13 for them. And they wanted the stores to be</p> <p>14 knowledgeable about where food came from.</p> <p>15 Q. So is that an accurate quote?</p> <p>16 A. This quote, this sentence</p> <p>17 "expected retail stores to get involved in</p> <p>18 this issue" would be a correct quote.</p> <p>19 Q. Does it reflect your view that</p> <p>20 consumers expected retail stores to become</p> <p>21 involved with animal welfare issues?</p> <p>22 MR. PATTON: Object to the form.</p> <p>23 Asked and answered.</p> <p>24 MR. WILDERS: Mischaracterizes</p> <p>25 the testimony.</p>
<p style="text-align: right;">Page 363</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 "'expected retail stores to get involved in</p> <p>3 this issue."</p> <p>4 Is that accurate?</p> <p>5 A. What we said here was that we</p> <p>6 conducted the focus group to determine if</p> <p>7 consumers thought we should.</p> <p>8 Q. What were the results of that</p> <p>9 finding?</p> <p>10 A. The consumers did not directly</p> <p>11 relate retail food stores and live animals</p> <p>12 and animal welfare issues.</p> <p>13 Q. Well, you say in the paragraph,</p> <p>14 it's the one, two, third full paragraph in</p> <p>15 the second column, it starts with "They also</p> <p>16 told..."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. You say that consumers</p> <p>20 "expected retail stores to get involved in</p> <p>21 this issue"?</p> <p>22 MR. PATTON: Object. You only</p> <p>23 read part of the quote.</p> <p>24 BY MR. DAVIS:</p> <p>25 Q. Do you see that?</p>	<p style="text-align: right;">Page 365</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 THE WITNESS: We have a copy of</p> <p>3 the complete report, and this is just</p> <p>4 a quote, you know, several words that</p> <p>5 are quoted as part of a statement. So</p> <p>6 I think in context, you would have to</p> <p>7 look at the summary report from the</p> <p>8 consumer group survey. But as it is</p> <p>9 used here, it is correct in the sense</p> <p>10 that in that report it said that</p> <p>11 retail stores were expected by their</p> <p>12 consumers to be knowledgeable and</p> <p>13 aware of animal welfare issues.</p> <p>14 BY MR. DAVIS:</p> <p>15 Q. Toward the end of the article,</p> <p>16 it says, "So far, FMI and NCCR..." Do you</p> <p>17 see that? It's under the pictures of the</p> <p>18 pigs.</p> <p>19 A. Yes.</p> <p>20 Q. It says, "...FMI and NCCR have</p> <p>21 endorsed the animal care guidelines developed</p> <p>22 by..., " and it lists a number of entities</p> <p>23 including United Egg Producers?</p> <p>24 A. Yes.</p> <p>25 Q. So is it accurate that FMI and</p>

<p style="text-align: right;">Page 366</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 NCCR endorsed the animal welfare guidelines</p> <p>3 developed by United Egg Producers?</p> <p>4 A. I would have to actually look</p> <p>5 at the dates and the dates of the status</p> <p>6 reports. What I want to be careful is that</p> <p>7 there were programs that were endorsed with</p> <p>8 differences. And depending on the date of</p> <p>9 this article and the date of the status</p> <p>10 reports, I can't confirm just looking at this</p> <p>11 if that was with or without the differences,</p> <p>12 if they had been resolved at that time or</p> <p>13 not.</p> <p>14 Q. So they endorsed, FMI endorsed</p> <p>15 the UEP guidelines, and at some point</p> <p>16 endorsed them without any identified</p> <p>17 differences?</p> <p>18 A. Yes.</p> <p>19 Q. The last paragraph, "We are</p> <p>20 given a lot of credit for actually bringing</p> <p>21 about some of most sweeping changes in animal</p> <p>22 welfare that, in the past, were talked about</p> <p>23 but never really happened until recently."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 368</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 sorry, disc number five. The time is</p> <p>3 5:01.</p> <p>4 BY MR. DAVIS:</p> <p>5 Q. Dr. Hollingsworth, you</p> <p>6 testified earlier that FMI did not think it</p> <p>7 was appropriate to endorse any producers'</p> <p>8 certification program. Is that right?</p> <p>9 A. That is correct.</p> <p>10 Q. Why was that?</p> <p>11 A. Because our goal was to</p> <p>12 strictly have science-based guidelines. We</p> <p>13 did not feel that we wanted to pursue any</p> <p>14 kind of certification because the program was</p> <p>15 voluntary, and we didn't want to imply that</p> <p>16 there was somehow our direct oversight of</p> <p>17 these guidelines. They were not our</p> <p>18 guidelines. They were endorsed by us, but</p> <p>19 they were not ours and, therefore, we felt we</p> <p>20 weren't going to certify producers that were</p> <p>21 using them.</p> <p>22 Q. That was true across the board,</p> <p>23 that wasn't specific to UEP. Correct?</p> <p>24 A. That's correct.</p> <p>25 Q. If you'll turn back to your</p>
<p style="text-align: right;">Page 367</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Would that include animal</p> <p>3 welfare guidelines?</p> <p>4 A. That would.</p> <p>5 Q. Including the UEP Animal</p> <p>6 Welfare Guidelines?</p> <p>7 A. I think the concept of sweeping</p> <p>8 changes in animal welfare was the entire</p> <p>9 approach that we took and that we were able</p> <p>10 to, with our experts, identify best practices</p> <p>11 that were not currently considered best</p> <p>12 practices and now were as a result of the</p> <p>13 work that we had done.</p> <p>14 Q. You can put that down.</p> <p>15 MR. DAVIS: Can we go off the</p> <p>16 record for one minute?</p> <p>17 VIDEOGRAPHER: Going off the</p> <p>18 record. The time is 4:46.</p> <p>19 - - -</p> <p>20 (A recess was taken from 4:46</p> <p>21 p.m. to 5:01 p.m.)</p> <p>22 - - -</p> <p>23 VIDEOGRAPHER: We are back on</p> <p>24 the video record. The start of disc</p> <p>25 number three. The time is -- I'm</p>	<p style="text-align: right;">Page 369</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 article, Exhibit 24 on page 656, at the</p> <p>3 bottom of the first column, literally the</p> <p>4 last word, "The" and then continuing on to</p> <p>5 the next column. "The purpose of these</p> <p>6 consumer groups..., " and this is referring to</p> <p>7 the consumer focus groups. Is that right?</p> <p>8 A. Yes.</p> <p>9 Q. "The purpose of these consumer</p> <p>10 groups is to informally probe what consumers</p> <p>11 thought the role of the supermarket should be</p> <p>12 regarding animal welfare." Is that accurate?</p> <p>13 A. Yes.</p> <p>14 Q. "The unpublished results of the</p> <p>15 focus groups were that consumers want to be</p> <p>16 sure animals in food production are treated</p> <p>17 humanely."</p> <p>18 Is that accurate?</p> <p>19 A. Yes.</p> <p>20 Q. So is that what the findings of</p> <p>21 the consumer focus groups were, was that</p> <p>22 consumers wanted to be sure animals in food</p> <p>23 production are treated humanely?</p> <p>24 A. I believe that's a correct</p> <p>25 statement.</p>

<p style="text-align: right;">Page 370</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. So you testified earlier, you</p> <p>3 were shown Exhibit 4 which was the results of</p> <p>4 these focus groups. Do you recall your</p> <p>5 testimony about that document?</p> <p>6 A. Yes.</p> <p>7 Q. And you testified that in light</p> <p>8 of receiving that document, FMI asked its</p> <p>9 members how they wanted to proceed. Is that</p> <p>10 accurate?</p> <p>11 MR. PATTON: Objection to the</p> <p>12 form. Misstates prior testimony.</p> <p>13 MR. WILDERS: Objection.</p> <p>14 THE WITNESS: In response to</p> <p>15 this, we asked our members did they</p> <p>16 want us to continue with the pursuit</p> <p>17 of an animal welfare program as we had</p> <p>18 already outlined it to them.</p> <p>19 BY MR. DAVIS:</p> <p>20 Q. How did your members respond to</p> <p>21 that question?</p> <p>22 A. They said, yes, they wanted us</p> <p>23 to continue to look at animal welfare as an</p> <p>24 issue.</p> <p>25 Q. In response to the focus groups</p>	<p style="text-align: right;">Page 372</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. DAVIS:</p> <p>3 Q. Dr. Hollingsworth, do you</p> <p>4 recognize Exhibit 39?</p> <p>5 A. Yes, in general. I'd have to</p> <p>6 read it. But it is a document from Karen</p> <p>7 Brown with an animal welfare update attached.</p> <p>8 Q. Does this reflect that on</p> <p>9 August 16, 2002, Ms. Brown sent to FMI</p> <p>10 members a document called an Animal Welfare</p> <p>11 Update?</p> <p>12 A. Yes.</p> <p>13 Q. These are, in fact, eight FMI</p> <p>14 members listed as recipients of this fax, are</p> <p>15 they not?</p> <p>16 A. Yes.</p> <p>17 Q. In the paragraph under the</p> <p>18 heading "United Egg Producers," Ms. Brown</p> <p>19 writes that "UEP has requested we communicate</p> <p>20 to our members how important it is for</p> <p>21 retailers voluntarily supporting the FMI</p> <p>22 animal welfare guidelines for egg layers to</p> <p>23 make sure their egg buyers let their egg</p> <p>24 suppliers know they want confirmation their</p> <p>25 suppliers are following UEP guidelines."</p>
<p style="text-align: right;">Page 371</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 that FMI commissioned, your members asked</p> <p>3 that FMI continue to look into animal</p> <p>4 welfare?</p> <p>5 A. That was one of the factors.</p> <p>6 Remember, originally we had talked about that</p> <p>7 members had received letters from PETA, they</p> <p>8 were aware of what was happening to other</p> <p>9 industry sectors. They were also just</p> <p>10 monitoring the media. All of those factors</p> <p>11 contributed to their interest in having an</p> <p>12 animal welfare program. The consumer focus</p> <p>13 group was one component that was added to</p> <p>14 those others where they then said, yes, we</p> <p>15 want to continue with this. But this was not</p> <p>16 the only reason they wanted to do it.</p> <p>17 Q. It was one of the reasons?</p> <p>18 A. It was one of the reasons.</p> <p>19 Q. I'm going to show you what's</p> <p>20 been marked as Exhibit 39.</p> <p>21 - - -</p> <p>22 (Exhibit H-39, 8/16/02 Fax,</p> <p>23 Bates FMI-001066 - FMI-001077, was</p> <p>24 marked for identification.)</p> <p>25 - - -</p>	<p style="text-align: right;">Page 373</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Is that accurate?</p> <p>3 A. Yes, what you read is what it</p> <p>4 says here.</p> <p>5 Q. So did Ms. Brown inform FMI</p> <p>6 members of UEP's request that FMI communicate</p> <p>7 to its members the importance that UEP saw in</p> <p>8 the retailers voluntarily supporting the FMI</p> <p>9 animal welfare guidelines?</p> <p>10 A. To my knowledge, only in this</p> <p>11 document. It was not a broad-based</p> <p>12 announcement to the entire membership.</p> <p>13 Q. This is an example of FMI</p> <p>14 communicating UEP's desire, is it not?</p> <p>15 MR. WILDERS: Objection. Asked</p> <p>16 and answered. Misstates her</p> <p>17 testimony.</p> <p>18 THE WITNESS: It is Karen Brown</p> <p>19 explaining to the members what UEP has</p> <p>20 requested.</p> <p>21 BY MR. DAVIS:</p> <p>22 Q. Which is that FMI communicate</p> <p>23 to its members how important it is for</p> <p>24 retailers to adopt the animal welfare</p> <p>25 guidelines. Right.</p>

<p style="text-align: right;">Page 374</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 MR. WILDERS: Objection.</p> <p>3 THE WITNESS: That was UEP's</p> <p>4 request.</p> <p>5 BY MR. DAVIS:</p> <p>6 Q. Here FMI, specifically Karen</p> <p>7 Brown, is relaying that request to certain</p> <p>8 FMI members. Right?</p> <p>9 A. Yes, she is letting them know</p> <p>10 what UEP's request was.</p> <p>11 Q. So it's not just FMI that was</p> <p>12 aware of this request by UEP but a number of</p> <p>13 its members. Right?</p> <p>14 MR. WILDERS: Objection. Vague</p> <p>15 and ambiguous. Misstates the document</p> <p>16 and the testimony.</p> <p>17 COURT REPORTER: I can't hear</p> <p>18 you.</p> <p>19 MR. DAVIS: Are you done</p> <p>20 talking?</p> <p>21 BY MR. DAVIS:</p> <p>22 Q. Go ahead, Ms. Hollingsworth.</p> <p>23 A. It is Karen Brown sharing with</p> <p>24 this group the request that UEP had made of</p> <p>25 FMI.</p>	<p style="text-align: right;">Page 376</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. Put that aside. I'll show you</p> <p>4 what's been marked Exhibit 40. Actually give</p> <p>5 me one second.</p> <p>6 Does FMI today continue to</p> <p>7 support UEP's Animal Welfare Guidelines?</p> <p>8 MR. PATTON: Objection. Outside</p> <p>9 of the scope of discovery. Outside</p> <p>10 the scope of discovery. The discovery</p> <p>11 cutoff is 2008. He's asking</p> <p>12 questions about 2000 --</p> <p>13 MR. BARNES: I understand. Are</p> <p>14 you saying -- on behalf of the DAP,</p> <p>15 are you saying you are not going to</p> <p>16 request discovery from any defendant</p> <p>17 post 2008? Is that your position?</p> <p>18 MR. PATTON: Our position is we</p> <p>19 have to work that out. His question</p> <p>20 are of FMI and they're in a case</p> <p>21 right now --</p> <p>22 MR. DAVIS: Your objection is</p> <p>23 noted. The question stands.</p> <p>24 THE WITNESS: Yes, they do.</p> <p>25 BY MR. DAVIS:</p>
<p style="text-align: right;">Page 375</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. So these eight FMI members were</p> <p>3 aware of UEP's request as of August 16, 2002.</p> <p>4 Right?</p> <p>5 A. Yes.</p> <p>6 Q. These members include, for</p> <p>7 example, Winn-Dixie. Correct?</p> <p>8 A. Yes.</p> <p>9 Q. And Albertsons?</p> <p>10 MR. RANDALL: Objection to form.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MR. DAVIS:</p> <p>13 Q. And Safeway?</p> <p>14 MR. RANDALL: Objection to form.</p> <p>15 THE WITNESS: Yes, these</p> <p>16 individuals with these companies were</p> <p>17 aware of that.</p> <p>18 BY MR. DAVIS:</p> <p>19 Q. And Kroger?</p> <p>20 A. Yes.</p> <p>21 Q. And Giant Foods?</p> <p>22 A. Yes.</p> <p>23 Q. Individuals within those</p> <p>24 companies were all aware of UEP's request as</p> <p>25 of August 16, 2002. Correct?</p>	<p style="text-align: right;">Page 377</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. FMI continues to support the</p> <p>3 UEP guidelines?</p> <p>4 A. Yes.</p> <p>5 Q. Why is that?</p> <p>6 A. Because they are included in</p> <p>7 the process of being reviewed by our experts</p> <p>8 and they meet the best practices as expressed</p> <p>9 by our experts.</p> <p>10 Q. Has any FMI member expressed a</p> <p>11 desire that FMI no longer endorse the UEP</p> <p>12 Certified Guidelines?</p> <p>13 MR. PATTON: Object to the form.</p> <p>14 Mischaracterizes the testimony.</p> <p>15 THE WITNESS: Not that I know</p> <p>16 of, no.</p> <p>17 BY MR. DAVIS:</p> <p>18 Q. I'll show you what's been</p> <p>19 marked as Exhibit 40.</p> <p>20 - - -</p> <p>21 (Exhibit H-40, UEP Certified</p> <p>22 Gets High Marks From Food Marketing</p> <p>23 Institute article, was marked for</p> <p>24 identification.)</p> <p>25 - - -</p>

95 (Pages 374 - 377)



<p style="text-align: right;">Page 378</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. DAVIS:</p> <p>3 Q. Dr. Hollingsworth, do you</p> <p>4 recognize Exhibit 40?</p> <p>5 A. No, I don't.</p> <p>6 Q. Have you ever read this press</p> <p>7 release before, or this article before I</p> <p>8 should say?</p> <p>9 MR. PATTON: Same objection.</p> <p>10 Outside the scope of discovery.</p> <p>11 MR. WILDERS: Also asked and</p> <p>12 answered.</p> <p>13 THE WITNESS: No, I don't recall</p> <p>14 reading this.</p> <p>15 BY MR. DAVIS:</p> <p>16 Q. The first line in the document</p> <p>17 states that "United Egg Producers...Certified</p> <p>18 program recently received one of the highest</p> <p>19 evaluations from the Food Marketing</p> <p>20 Institute...animal welfare advisory committee</p> <p>21 for its role in ensuring the proper care of</p> <p>22 egg-laying hens nationwide."</p> <p>23 Did I read that correctly?</p> <p>24 A. That is what it says.</p> <p>25 Q. Is that an accurate statement?</p>	<p style="text-align: right;">Page 380</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. DAVIS:</p> <p>3 Q. Do you have any reason to think</p> <p>4 that this is inaccurate?</p> <p>5 A. I do have a question about the</p> <p>6 certified program being included here.</p> <p>7 Q. If this were to refer only to</p> <p>8 the guidelines, would you have any reason to</p> <p>9 think it's inaccurate?</p> <p>10 MR. WILDERS: Calls for</p> <p>11 speculation. Hypothetical.</p> <p>12 MR. PATTON: Objection.</p> <p>13 THE WITNESS: I don't know that</p> <p>14 the Advisory Committee has done any</p> <p>15 kind of evaluation with a high or low</p> <p>16 evaluation process. I'm not aware of</p> <p>17 that.</p> <p>18 BY MR. DAVIS:</p> <p>19 Q. Is that within -- something</p> <p>20 that's within the knowledge of FMI?</p> <p>21 A. I don't know.</p> <p>22 Q. You don't know if anyone at FMI</p> <p>23 knows what FMI's Animal Welfare Advisory</p> <p>24 Committee has done?</p> <p>25 MR. PATTON: Object to the form.</p>
<p style="text-align: right;">Page 379</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. To my knowledge, it was</p> <p>3 recognition of the United Egg Producers'</p> <p>4 guidelines.</p> <p>5 Q. And did the guidelines receive</p> <p>6 one of the highest evaluations from FMI's</p> <p>7 Animal Welfare Advisory Committee?</p> <p>8 A. I don't know.</p> <p>9 Q. You don't know if that's</p> <p>10 accurate or not?</p> <p>11 A. I don't know if that's</p> <p>12 accurate.</p> <p>13 Q. Has FMI's Animal Welfare</p> <p>14 Advisory existed through today?</p> <p>15 A. The Welfare Advisory Committee</p> <p>16 does still exist, yes.</p> <p>17 Q. Do you know if the Welfare</p> <p>18 Advisory Committee evaluated producer</p> <p>19 guidelines as of May 30, 2013?</p> <p>20 MR. WILDERS: Object to the</p> <p>21 form.</p> <p>22 THE WITNESS: Reviewing</p> <p>23 guidelines has been an ongoing</p> <p>24 process, but I don't know the exact</p> <p>25 dates when that was done.</p>	<p style="text-align: right;">Page 381</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 THE WITNESS: With regard to</p> <p>3 this, I would have to say I'm not</p> <p>4 aware.</p> <p>5 BY MR. DAVIS:</p> <p>6 Q. But someone at FMI would know</p> <p>7 that. Right?</p> <p>8 A. I can't say that for sure. I</p> <p>9 don't know.</p> <p>10 MR. DAVIS: Go off the record.</p> <p>11 VIDEOGRAPHER: Going off the</p> <p>12 record. The time is 5:13.</p> <p>13 - - -</p> <p>14 (A recess was taken from 5:13</p> <p>15 p.m. to 5:15 p.m.)</p> <p>16 - - -</p> <p>17 VIDEOGRAPHER: We are back on</p> <p>18 the video record. The time is 5:15.</p> <p>19 MR. DAVIS: Dr. Hollingsworth,</p> <p>20 that's all the questions I have for</p> <p>21 you. Mr. Barnes is going to have some</p> <p>22 additional questions for you.</p> <p>23 THE WITNESS: Thank you.</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 382</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 - - -</p> <p>3 EXAMINATION</p> <p>4 - - -</p> <p>5 BY MR. BARNES:</p> <p>6 Q. Dr. Hollingsworth, we met</p> <p>7 briefly when you attended the deposition this</p> <p>8 morning. My name is Don Barnes. I represent</p> <p>9 Rose Acre Farms. I just have a few questions</p> <p>10 for you. I know it's late in the day and</p> <p>11 I'll try to be as brief as possible.</p> <p>12 A. All right.</p> <p>13 Q. What is an FMI dailyLead,</p> <p>14 L-E-A-D, do you know what that is?</p> <p>15 A. The FMI dailyLead is a news</p> <p>16 service that our trade association uses from</p> <p>17 an outside company that provides highlights</p> <p>18 of news stories that might be of interest to</p> <p>19 our members.</p> <p>20 Q. You just mentioned it might</p> <p>21 be -- these news stories might be of interest</p> <p>22 to your members. Can I assume that that</p> <p>23 document, the dailyLead, is circulated to</p> <p>24 your membership?</p> <p>25 A. It's a voluntary sign up.</p>	<p style="text-align: right;">Page 384</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. I don't know the exact because</p> <p>3 it changes from time to time based on a</p> <p>4 company's sales or acquisitions. I provided</p> <p>5 some of those companies that were among the</p> <p>6 top and largest companies, but I don't know</p> <p>7 their exact order.</p> <p>8 Q. You mentioned, I believe,</p> <p>9 Wal-Mart, Safeway, Kroger and SuperValu.</p> <p>10 A. I believe those are the ones I</p> <p>11 mentioned, yes.</p> <p>12 Q. Off the top of your head, do</p> <p>13 you have any recollection of the approximate</p> <p>14 volume of sales of any of those companies?</p> <p>15 A. I do not.</p> <p>16 Q. Do you have an idea of the</p> <p>17 largest amount of dues any member pays to</p> <p>18 FMI?</p> <p>19 A. I do not. It has changed over</p> <p>20 time and I do not know what that is right</p> <p>21 now.</p> <p>22 Q. Can you give me a ballpark?</p> <p>23 MR. PATTON: Objection.</p> <p>24 THE WITNESS: I don't know.</p> <p>25 BY MR. BARNES:</p>
<p style="text-align: right;">Page 383</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Can any non-members sign up?</p> <p>3 A. I believe they can.</p> <p>4 Q. So I could sign up and get a</p> <p>5 dailyLead, if I wanted to?</p> <p>6 A. I believe so.</p> <p>7 Q. Thank you.</p> <p>8 You testified earlier about the</p> <p>9 structure of FMI and about membership, how</p> <p>10 member dues are calculated. Do you recall</p> <p>11 generally that testimony?</p> <p>12 A. Yes, I do.</p> <p>13 Q. I believe you testified that</p> <p>14 member dues are calculated based upon sales?</p> <p>15 A. Volume, yes. Sales volume,</p> <p>16 yes.</p> <p>17 Q. Do you know who currently among</p> <p>18 the FMI membership has the largest sales</p> <p>19 volume?</p> <p>20 A. I believe that would be</p> <p>21 Wal-Mart.</p> <p>22 Q. Who is number two?</p> <p>23 A. I don't know exactly.</p> <p>24 Q. Who is number -- would it be</p> <p>25 Kroger?</p>	<p style="text-align: right;">Page 385</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Is it more than a million</p> <p>3 dollars?</p> <p>4 MR. PATTON: Objection.</p> <p>5 Foundation. Outside the scope.</p> <p>6 THE WITNESS: I don't know.</p> <p>7 BY MR. BARNES:</p> <p>8 Q. You have no idea what your</p> <p>9 largest member pays to the organization in</p> <p>10 dues?</p> <p>11 MR. WILDERS: Objection.</p> <p>12 Argumentative.</p> <p>13 THE WITNESS: I do not.</p> <p>14 BY MR. BARNES:</p> <p>15 Q. Now, Mr. Patton asked you about</p> <p>16 a lawsuit that certain egg producers had</p> <p>17 filed against some of your members. Do you</p> <p>18 recall generally that testimony?</p> <p>19 A. Yes.</p> <p>20 Q. Now, before that lawsuit was</p> <p>21 filed, are you aware that a number of your</p> <p>22 members had filed a lawsuit against United</p> <p>23 Egg Producers and some of its egg farmer</p> <p>24 members?</p> <p>25 A. Yes, I'm aware of that.</p>

<p style="text-align: right;">Page 386</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. How did you become aware of</p> <p>3 that?</p> <p>4 A. I was asked if I could be</p> <p>5 available for a deposition and that it</p> <p>6 involved a lawsuit whereby there were</p> <p>7 retailers who were the plaintiffs and</p> <p>8 producers who were the defendants.</p> <p>9 Q. When were you given that</p> <p>10 advice?</p> <p>11 A. I believe it was when -- I</p> <p>12 don't remember the exact day. It was when I</p> <p>13 was first asked if I could be made available</p> <p>14 to provide such information. It is -- I</p> <p>15 don't remember the day.</p> <p>16 Q. Are you aware that Mr. Patton</p> <p>17 represents six of your largest members in a</p> <p>18 lawsuit against UEP and my client?</p> <p>19 MR. PATTON: Object to the form</p> <p>20 of the question.</p> <p>21 THE WITNESS: I know he</p> <p>22 represents the plaintiffs or some of</p> <p>23 the plaintiffs. I don't know which</p> <p>24 ones.</p> <p>25 BY MR. BARNES:</p>	<p style="text-align: right;">Page 388</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 groups?</p> <p>3 A. Not as a specific function of</p> <p>4 FMI, but our communications media department</p> <p>5 does monitor the news media and information</p> <p>6 that is publicly available about such groups</p> <p>7 and their activities.</p> <p>8 Q. From time to time, did any of</p> <p>9 your members report to FMI about activities</p> <p>10 taken against them by some of these extremist</p> <p>11 animal rights groups?</p> <p>12 A. FMI members did notify us if</p> <p>13 they, for example, received a letter from an</p> <p>14 organization demanding certain changes to</p> <p>15 their procedures or practices, and FMI</p> <p>16 members would notify us if they wanted to</p> <p>17 make us aware, for example, if there was a</p> <p>18 protest or an expected protest in front of</p> <p>19 one of their stores.</p> <p>20 Q. Did they ever report any</p> <p>21 criminal activity by any of these extremist</p> <p>22 animal rights groups against them?</p> <p>23 A. Not that I'm aware of.</p> <p>24 Q. Would you, please, take a look</p> <p>25 at Exhibit 2 which has previously been</p>
<p style="text-align: right;">Page 387</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Do you know he represents</p> <p>3 Kroger?</p> <p>4 A. I would not know that</p> <p>5 specifically, no.</p> <p>6 Q. But you know he represents some</p> <p>7 of your members --</p> <p>8 A. Yes.</p> <p>9 Q. -- in a lawsuit against my</p> <p>10 client?</p> <p>11 A. I believe the lawsuit was</p> <p>12 against UEP. I don't know if it was specific</p> <p>13 producers.</p> <p>14 Q. You testified earlier about</p> <p>15 animal extremist -- or pardon me, I believe</p> <p>16 your words were extremist animal rights</p> <p>17 groups. Do you recall generally that</p> <p>18 testimony?</p> <p>19 A. Yes.</p> <p>20 Q. And I believe one of those</p> <p>21 groups was identified as the Animal</p> <p>22 Liberation Front. Do you recall that?</p> <p>23 A. Yes.</p> <p>24 Q. Did FMI keep track of the</p> <p>25 activities of these extremists animal rights</p>	<p style="text-align: right;">Page 389</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 marked. I want to direct your attention</p> <p>3 specifically, Dr. Hollingsworth, to the third</p> <p>4 page of the Bates number on the bottom is</p> <p>5 FMI-001156. Do you see that page?</p> <p>6 A. Yes, I do.</p> <p>7 Q. According to this page, FMI</p> <p>8 categorized some of the extremist animal</p> <p>9 rights groups into three categories, radical,</p> <p>10 moderate, and passive. Do you see that?</p> <p>11 A. Yes.</p> <p>12 MR. PATTON: Object to the form.</p> <p>13 BY MR. BARNES:</p> <p>14 Q. This is an FMI document.</p> <p>15 Correct?</p> <p>16 A. That's my understanding, yes,</p> <p>17 it is.</p> <p>18 Q. Now, looking under the</p> <p>19 "RADICAL" column, if you would, please, do</p> <p>20 you see the Animal Liberation Front listed</p> <p>21 under that column?</p> <p>22 A. Yes, I do.</p> <p>23 Q. Now, FMI also provided a</p> <p>24 definition of the extremist groups listed as</p> <p>25 radical. Is that correct?</p>

<p style="text-align: right;">Page 390</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes, they did.</p> <p>3 Q. What's the definition that FMI</p> <p>4 provided for these extremist animal rights</p> <p>5 groups?</p> <p>6 A. It would -- the definition</p> <p>7 says, "criminal acts &amp; destruction of</p> <p>8 property."</p> <p>9 Q. Thank you, Dr. Hollingsworth,</p> <p>10 I'm through with that document.</p> <p>11 Let me -- you previously</p> <p>12 testified that Associated Wholesale Grocers</p> <p>13 was a member of FMI, I believe the question</p> <p>14 was 2000 to the present. Is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. Do you know an individual named</p> <p>17 Douglas Carolan?</p> <p>18 A. Doesn't ring a bell.</p> <p>19 Q. How about Gary Phillips?</p> <p>20 A. I know that name.</p> <p>21 Q. Who was Gary Phillips?</p> <p>22 A. I believe -- I'm trying to</p> <p>23 think of in what context I know Gary</p> <p>24 Phillips. I know he was a member, but I</p> <p>25 can't remember in what capacity.</p>	<p style="text-align: right;">Page 392</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Would you look down on the</p> <p>3 left-hand side column about ten names down.</p> <p>4 There's a name Douglas Carolan, Associated</p> <p>5 Wholesale Grocers, Inc., Kansas City.</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Does that at all refresh your</p> <p>9 recollection as to whether Mr. Carolan was on</p> <p>10 the board of FMI certainly back in this time</p> <p>11 period?</p> <p>12 A. Yes, he was. According to</p> <p>13 this, he was.</p> <p>14 Q. By the way, is this type of</p> <p>15 document, a document that FMI regularly</p> <p>16 prepares and maintains as a business record?</p> <p>17 A. Yes.</p> <p>18 MR. WILDERS: Lacks foundation.</p> <p>19 Outside the scope.</p> <p>20 BY MR. BARNES:</p> <p>21 Q. Let me show you another one.</p> <p>22 Exhibit 42.</p> <p>23 - - -</p> <p>24 (Exhibit H-42, Food Marketing</p> <p>25 Institute Officers and Directors,</p>
<p style="text-align: right;">Page 391</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Do you recall whether he had</p> <p>3 previously been on the Board of Directors?</p> <p>4 A. I wouldn't know that off the</p> <p>5 top of my head.</p> <p>6 Q. That I assume would be in the</p> <p>7 documents that you produced?</p> <p>8 A. Yes.</p> <p>9 MR. BARNES: Let's mark as our</p> <p>10 next exhibit, whatever number it is.</p> <p>11 MR. GREEN: 41.</p> <p>12 - - -</p> <p>13 (Exhibit H-41, Food Marketing</p> <p>14 Institute Officers and Directors,</p> <p>15 Bates FMI-000983, was marked for</p> <p>16 identification.)</p> <p>17 - - -</p> <p>18 BY MR. BARNES:</p> <p>19 Q. Now, take a moment, please, Dr.</p> <p>20 Hollingsworth, and take a look at what has</p> <p>21 been marked as Exhibit 41, bears the</p> <p>22 identification number FMI-000983. What is</p> <p>23 this document?</p> <p>24 A. This is a list of the officers</p> <p>25 and directors of FMI's board dated 6 of 2000.</p>	<p style="text-align: right;">Page 393</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Bates FMI-000685, was marked for</p> <p>3 identification.)</p> <p>4 - - -</p> <p>5 BY MR. BARNES:</p> <p>6 Q. Once again, if you would,</p> <p>7 please, take a moment to look at Exhibit 42,</p> <p>8 bears identification number FMI-000685. And</p> <p>9 in particular, Dr. Hollingsworth, the fourth</p> <p>10 column from the left, the third name from the</p> <p>11 bottom, do you see that? Gary L. Phillips --</p> <p>12 A. Yes, I do.</p> <p>13 Q. -- Associated Wholesale</p> <p>14 Grocers?</p> <p>15 A. Yes.</p> <p>16 Q. Does that refresh your</p> <p>17 recollection that Mr. Phillips was a member</p> <p>18 of your board back in 2001?</p> <p>19 A. Yes.</p> <p>20 Q. Now, if you look at the first</p> <p>21 column, the third name down is J. Fred Ball.</p> <p>22 Ball's Price Chopper &amp; Hen House Markets,</p> <p>23 Kansas City. Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. I take it Mr. Ball was a member</p>

<p style="text-align: right;">Page 394</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 of your board at this time. Correct?</p> <p>3 A. Yes, he was.</p> <p>4 Q. Do you know if he had any</p> <p>5 affiliation with Associated Wholesale</p> <p>6 Grocers?</p> <p>7 A. I do not know.</p> <p>8 Q. Do you know if an organization</p> <p>9 called Price Chopper had any association with</p> <p>10 your member Associated Wholesale Grocers?</p> <p>11 A. I don't know.</p> <p>12 MR. WILDERS: Objection. Vague.</p> <p>13 BY MR. BARNES:</p> <p>14 Q. I've got a series of these, but</p> <p>15 I'm not going to spend the time marking them.</p> <p>16 You've already testified that they are</p> <p>17 business records of FMI. Correct?</p> <p>18 MR. WILDERS: Objection. Lacks</p> <p>19 foundation. Outside the scope.</p> <p>20 BY MR. BARNES:</p> <p>21 Q. That is correct, Dr.</p> <p>22 Hollingsworth, they are business records?</p> <p>23 A. Yes.</p> <p>24 MR. BARNES: Let me mark as our</p> <p>25 next exhibit, I think it's 43.</p>	<p style="text-align: right;">Page 396</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. And that was in May of 2009.</p> <p>5 Is that correct?</p> <p>6 A. Correct.</p> <p>7 Q. Does that refresh your</p> <p>8 recollection that in or about this period of</p> <p>9 time Mr. Garland was elected to the FMI</p> <p>10 Board?</p> <p>11 A. Yes.</p> <p>12 Q. Now, the first paragraph of</p> <p>13 this exhibit says that Mr. Garland was also</p> <p>14 president and CEO of Associated Wholesale</p> <p>15 Grocers, Inc. Do you see that? The very</p> <p>16 first paragraph.</p> <p>17 A. Yes.</p> <p>18 Q. Did you happen to know Mr.</p> <p>19 Garland when he was at Kroger?</p> <p>20 A. No, I did not.</p> <p>21 Q. The document says that prior to</p> <p>22 joining AWG, he worked for the Kroger company</p> <p>23 for 24 years. But you had no connection with</p> <p>24 him during his Kroger tenure?</p> <p>25 MR. WILDERS: Asked and</p>
<p style="text-align: right;">Page 395</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. BARNES:</p> <p>3 Q. While she's marking that</p> <p>4 exhibit, do you know an individual named</p> <p>5 Jerry Garland?</p> <p>6 A. Again, the name is familiar,</p> <p>7 but I cannot tell you in what context.</p> <p>8 Q. We're going to try to refresh</p> <p>9 your recollection. Would you, please, take a</p> <p>10 look at what --</p> <p>11 - - -</p> <p>12 (Exhibit H-43, 5/5/09 FMI press</p> <p>13 release, was marked for identification.)</p> <p>14 - - -</p> <p>15 BY MR. BARNES:</p> <p>16 Q. Dr. Hollingsworth, please take</p> <p>17 a look at what has been marked as Exhibit 43.</p> <p>18 It is a press release, it appears to be an</p> <p>19 FMI press release, and I'll ask you if you</p> <p>20 can identify that document?</p> <p>21 A. Yes. It does appear to be an</p> <p>22 FMI press release.</p> <p>23 Q. And it refers to -- the press</p> <p>24 release says, "JERRY GARLAND ELECTED TO FMI</p> <p>25 BOARD."</p>	<p style="text-align: right;">Page 397</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 answered.</p> <p>3 THE WITNESS: I did not.</p> <p>4 BY MR. BARNES:</p> <p>5 Q. You mentioned in your prior</p> <p>6 testimony that some of your members, and</p> <p>7 maybe many of your members, your larger</p> <p>8 members, have subsidiaries. Do you recall</p> <p>9 that?</p> <p>10 A. Yes.</p> <p>11 Q. Are subsidiaries eligible for</p> <p>12 their own membership in FMI?</p> <p>13 A. It depends on how the company</p> <p>14 is structured. Some of them are members as</p> <p>15 separate members and independent. Others are</p> <p>16 just under the umbrella of a corporate</p> <p>17 company that they belong to.</p> <p>18 Q. So if -- let's take a wild</p> <p>19 example, Associated Wholesale Grocers, they</p> <p>20 have their own membership. Correct?</p> <p>21 A. Correct.</p> <p>22 Q. Now, assuming they have</p> <p>23 subsidiaries or affiliated groups, and</p> <p>24 assuming further that those affiliated groups</p> <p>25 became members of FMI, wouldn't that give AWG</p>

<p style="text-align: right;">Page 398</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 a disproportionate voice in the governance of</p> <p>3 FMI?</p> <p>4 MR. WILDERS: Object to the</p> <p>5 characterization of AWG members as</p> <p>6 subsidiaries.</p> <p>7 BY MR. BARNES:</p> <p>8 Q. Affiliates.</p> <p>9 MR. WILDERS: Same objection.</p> <p>10 THE WITNESS: I believe you're</p> <p>11 comparing a wholesaler to a retailer,</p> <p>12 and that would be different.</p> <p>13 BY MR. BARNES:</p> <p>14 Q. Well, please explain that to</p> <p>15 me, I didn't understand it.</p> <p>16 A. A retailer who may be receiving</p> <p>17 products from a wholesaler is a separate</p> <p>18 company.</p> <p>19 Q. Did you understand Associated</p> <p>20 Wholesale Grocers to be a wholesaler?</p> <p>21 A. That would be my understanding</p> <p>22 of their primary business.</p> <p>23 Q. Did you understand that</p> <p>24 Associated Wholesale Grocers had members?</p> <p>25 A. I did not know they considered</p>	<p style="text-align: right;">Page 400</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 for dues would be in your company records?</p> <p>3 A. FMI has a formula for assessing</p> <p>4 dues.</p> <p>5 Q. I mean, how does FMI</p> <p>6 calculate AW -- I'm sorry, you're right.</p> <p>7 They have a formula. Is it different for</p> <p>8 wholesalers?</p> <p>9 A. I don't know.</p> <p>10 Q. I am almost done. One second.</p> <p>11 Do you know that Associated</p> <p>12 Wholesale Grocers, another one of your</p> <p>13 members, is suing UEP and my client? Are you</p> <p>14 aware of that?</p> <p>15 A. I did not know that.</p> <p>16 Q. Well, you'll get a chance to</p> <p>17 meet AWG, your member's lawyer who is</p> <p>18 representing AWG in that lawsuit in a few</p> <p>19 minutes.</p> <p>20 Are you aware, Dr. Hollingsworth,</p> <p>21 that some of your members, independent of FMI,</p> <p>22 on their own, came to UEP and worked with UEP</p> <p>23 on the Animal Welfare Guidelines?</p> <p>24 MR. PATTON: Object to the form</p> <p>25 of the question.</p>
<p style="text-align: right;">Page 399</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 them members. I'm not sure that that's the</p> <p>3 term that they use.</p> <p>4 Q. Without getting into legal</p> <p>5 technicality, can we use affiliates as a</p> <p>6 general descriptive term?</p> <p>7 MR. GREEN: Objection.</p> <p>8 MR. WILDERS: Objection. Vague</p> <p>9 and ambiguous.</p> <p>10 BY MR. BARNES:</p> <p>11 Q. How about they had -- they were</p> <p>12 retailers to whom Associated Wholesale</p> <p>13 Grocers sold product?</p> <p>14 A. That I would say is true.</p> <p>15 Q. Are any of them members of FMI?</p> <p>16 A. I would not specifically know</p> <p>17 that.</p> <p>18 Q. How about generally?</p> <p>19 A. Generally one would assume that</p> <p>20 a wholesale FMI member also has retail</p> <p>21 members to whom they sell products.</p> <p>22 Q. Now, how would you calculate</p> <p>23 the dues of a wholesaler such as AWG?</p> <p>24 A. I don't know that.</p> <p>25 Q. But, again, whatever they paid</p>	<p style="text-align: right;">Page 401</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 MR. WILDERS: Assumes facts not</p> <p>3 in evidence.</p> <p>4 THE WITNESS: I am not aware of</p> <p>5 that.</p> <p>6 BY MR. BARNES:</p> <p>7 Q. Are you aware that any of your</p> <p>8 members required AWG -- pardon me, let me</p> <p>9 strike that. That was a terrible start.</p> <p>10 Terrible start.</p> <p>11 Are you aware that any of your</p> <p>12 members required their eggs to come from</p> <p>13 chickens who were raised according to the UEP</p> <p>14 Animal Welfare Guidelines?</p> <p>15 MR. PATTON: Object to the form.</p> <p>16 MR. WILDERS: Assumes facts not</p> <p>17 in evidence.</p> <p>18 THE WITNESS: I am not aware of</p> <p>19 any specific company that would have</p> <p>20 made that decision. It was a</p> <p>21 voluntary program for retailers to</p> <p>22 make the decision if they wanted their</p> <p>23 suppliers to use any of the guidelines</p> <p>24 that we had supported.</p> <p>25 BY MR. BARNES:</p>

<p style="text-align: right;">Page 402</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. And I understand that. But are</p> <p>3 you aware that any of your retailers actually</p> <p>4 took that step?</p> <p>5 A. No, I don't know that. We</p> <p>6 didn't track that. We have no list of that.</p> <p>7 We didn't do that.</p> <p>8 MR. BARNES: Dr. Hollingsworth,</p> <p>9 you've been exceedingly patient after</p> <p>10 a long day, and I thank you for</p> <p>11 spending this much time with us. I</p> <p>12 have no further questions at this</p> <p>13 time.</p> <p>14 VIDEOGRAPHER: Going off the</p> <p>15 record. The time of 5:38.</p> <p>16 - - -</p> <p>17 (A recess was taken from</p> <p>18 5:38 p.m. to 5:40 p.m.)</p> <p>19 - - -</p> <p>20 VIDEOGRAPHER: Back on the video</p> <p>21 record. The time of 5:40.</p> <p>22 - - -</p> <p>23 EXAMINATION</p> <p>24 - - -</p> <p>25 BY MS. KANTOR:</p>	<p style="text-align: right;">Page 404</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 right?</p> <p>3 A. Yes.</p> <p>4 Q. So Brian Dowling is listed as</p> <p>5 being involved in a committee?</p> <p>6 A. Yes.</p> <p>7 Q. And Debra Lambert is listed?</p> <p>8 A. Yes.</p> <p>9 Q. Susan Adams was involved in the</p> <p>10 committee?</p> <p>11 A. Yes.</p> <p>12 Q. And Craig Bolton?</p> <p>13 A. I need to clarify. The</p> <p>14 committee was sort of a core committee, but a</p> <p>15 lot of times the committee members would</p> <p>16 involve other people from their company who</p> <p>17 had an interest either for communications or</p> <p>18 whatever reason, and so the cc'd list were</p> <p>19 people who said please keep me involved and</p> <p>20 in the loop on what's going on, what the</p> <p>21 committee is doing.</p> <p>22 Q. I see. So the people in the cc</p> <p>23 line may not have asked to be informed of the</p> <p>24 committee's efforts. Is that right?</p> <p>25 A. No. The people on the cc may</p>
<p style="text-align: right;">Page 403</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Good afternoon, Dr.</p> <p>3 Hollingsworth. My name is Elisa Kantor, and</p> <p>4 I represent Daybreak Foods in this case.</p> <p>5 Earlier you testified that</p> <p>6 Winn-Dixie was a member of FMI sometime</p> <p>7 between 2000 and the present. Is that right?</p> <p>8 A. Continuously since 2000.</p> <p>9 Q. So do you know when Winn-Dixie</p> <p>10 became a member?</p> <p>11 A. No.</p> <p>12 Q. I'd like to turn your attention</p> <p>13 to Exhibit 26, please.</p> <p>14 A. I have it.</p> <p>15 Q. Earlier you testified that</p> <p>16 people listed in the fax to line and cc line</p> <p>17 on the top of the first page of this document</p> <p>18 were -- had expressed interest in the Member</p> <p>19 Advisory Committee regarding Animal Welfare</p> <p>20 Guidelines review. Is that right?</p> <p>21 A. Yes, their interest was in the</p> <p>22 entire program that FMI was initiating and</p> <p>23 managing on animal welfare.</p> <p>24 Q. You see that there are some</p> <p>25 Safeway employees listed here. Is that</p>	<p style="text-align: right;">Page 405</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 not have been specific members of the</p> <p>3 committee, but they asked to be kept informed</p> <p>4 of the activities that we were performing.</p> <p>5 Q. I see. So that would include</p> <p>6 the Safeway employees listed on the cc line.</p> <p>7 Is that right?</p> <p>8 A. Yes.</p> <p>9 Q. And Mickey Clerc from</p> <p>10 Winn-Dixie is also listed on the fax to line</p> <p>11 on this document. Is that right?</p> <p>12 A. Yes.</p> <p>13 Q. Do you remember what Mickey</p> <p>14 Clerc's role was in this committee?</p> <p>15 A. All the committee members</p> <p>16 were -- there wasn't specific designated</p> <p>17 roles or offices or anything of that nature.</p> <p>18 It was an ad hoc committee that was put</p> <p>19 together just to advise FMI on their process</p> <p>20 for addressing animal welfare.</p> <p>21 Q. And you see -- sorry. Strike</p> <p>22 that.</p> <p>23 Were any other Safeway</p> <p>24 employees involved in FMI's animal welfare</p> <p>25 efforts between 1999 and 2008 other than the</p>



<p style="text-align: right;">Page 406</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 individuals listed here?</p> <p>3 A. Between '99 and 2008?</p> <p>4 Q. Yes.</p> <p>5 A. I would assume that there</p> <p>6 probably was. I couldn't tell you off the</p> <p>7 top of my head. But there were changes in</p> <p>8 companies. People changed positions and</p> <p>9 became involved. So I would say it's</p> <p>10 possible that there was, but I don't know</p> <p>11 them.</p> <p>12 Q. You don't specifically recall</p> <p>13 any other people?</p> <p>14 A. No.</p> <p>15 Q. How about for Winn-Dixie, were</p> <p>16 any other Winn-Dixie employees involved in</p> <p>17 FMI's animal welfare efforts between 1999 and</p> <p>18 2008?</p> <p>19 A. I would say the same, it is</p> <p>20 possible, but I couldn't identify any</p> <p>21 specific individuals.</p> <p>22 Q. Dr. Hollingsworth, earlier you</p> <p>23 testified that FMI has a board of directors.</p> <p>24 Is that right?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 408</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 FMI-001065, was marked for</p> <p>3 identification.)</p> <p>4 - - -</p> <p>5 BY MS. KANTOR:</p> <p>6 Q. Dr. Hollingsworth, the court</p> <p>7 reporter has handed you what has been marked</p> <p>8 as Exhibit 44 which is Bates stamped</p> <p>9 FMI-001062.</p> <p>10 A. Yes.</p> <p>11 Q. I'd like to direct your</p> <p>12 attention to the second page of this</p> <p>13 document, please. Does this appear to be the</p> <p>14 Board of Directors list for the Food</p> <p>15 Marketing Institute?</p> <p>16 A. Yes.</p> <p>17 Q. Do you see on the first page of</p> <p>18 this document that the memorandum is dated</p> <p>19 June 6, 2007?</p> <p>20 A. Yes.</p> <p>21 Q. Does this indicate to you that</p> <p>22 this was the Food Marketing Institute Board</p> <p>23 of Directors list as of that date?</p> <p>24 A. Yes, for 2007.</p> <p>25 Q. Do you see on the fourth line</p>
<p style="text-align: right;">Page 407</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. And are you generally familiar</p> <p>3 with the people who are on FMI's Board of</p> <p>4 Directors between 1999 and 2008?</p> <p>5 A. Generally. It's a very large</p> <p>6 board and there is always a list available as</p> <p>7 we've seen in these exhibits.</p> <p>8 Q. Picking up Exhibit 42, if you</p> <p>9 could, do you see on the right-hand side of</p> <p>10 the list of officers and directors, five</p> <p>11 lines down that Allen Rowland is listed?</p> <p>12 A. Yes.</p> <p>13 Q. Was Allen Rowland from</p> <p>14 Winn-Dixie stores a member of the FMI Board</p> <p>15 of Directors during the 2001 period?</p> <p>16 A. Yes.</p> <p>17 Q. Was Peter Lynch ever a member</p> <p>18 of the FMI Board of Directors?</p> <p>19 A. Again, I would not say that</p> <p>20 without being able to verify it in writing.</p> <p>21 MS. KANTOR: Would you, please,</p> <p>22 mark this?</p> <p>23 - - -</p> <p>24 (Exhibit H-44, 6/6/07</p> <p>25 Memorandum, Bates FMI-001062 -</p>	<p style="text-align: right;">Page 409</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 from the left, three rows down where Peter</p> <p>3 Lynch from Winn-Dixie stores is listed?</p> <p>4 A. Fourth row?</p> <p>5 Q. Fourth row from -- sorry,</p> <p>6 fourth column from the left, three rows down?</p> <p>7 A. Yes.</p> <p>8 Q. Does that refresh your</p> <p>9 recollection as to whether Peter Lynch was on</p> <p>10 the FMI Board of Directors?</p> <p>11 A. Yes.</p> <p>12 Q. Dr. Hollingsworth, did</p> <p>13 Mr. Rowland or Mr. Lynch participate in any</p> <p>14 discussions or meetings regarding the</p> <p>15 development of FMI's animal welfare policy?</p> <p>16 A. Not that I was engaged in, no,</p> <p>17 or that I'm aware of.</p> <p>18 Q. Has Winn-Dixie been involved in</p> <p>19 any animal welfare efforts that FMI is</p> <p>20 currently involved in?</p> <p>21 A. Winn-Dixie has been involved in</p> <p>22 the process from its beginning in 2000. Is</p> <p>23 that your question? I think I understood</p> <p>24 that.</p> <p>25 Q. So are you saying that</p>

<p style="text-align: right;">Page 410</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Winn-Dixie is still involved in FMI's review</p> <p>3 of animal welfare guidelines?</p> <p>4 A. Winn-Dixie is now owned by a</p> <p>5 different company. I'm not sure who would</p> <p>6 represent them at this time, but I believe</p> <p>7 that they're -- the committee itself, as I</p> <p>8 had mentioned earlier, is not necessarily an</p> <p>9 active committee. It was an ad hoc committee</p> <p>10 to put the program in place. So there is not</p> <p>11 an active working committee, per se, on this,</p> <p>12 but there is a large group of FMI members who</p> <p>13 remain interested in the issue and receive</p> <p>14 updates.</p> <p>15 Q. Is Winn-Dixie one of those</p> <p>16 members?</p> <p>17 A. I couldn't say for sure,</p> <p>18 especially since they're not operating under</p> <p>19 the Winn-Dixie banner for us. It's Bi-Lo.</p> <p>20 Q. Is Bi-Lo one of those members?</p> <p>21 A. I don't know.</p> <p>22 Q. Is Safeway one of those</p> <p>23 members?</p> <p>24 A. I don't know specifically who</p> <p>25 is receiving current e-mails. I don't know</p>	<p style="text-align: right;">Page 412</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 to do so.</p> <p>3 MR. DAVIS: So defendants will,</p> <p>4 with that, turn questioning back over.</p> <p>5 We, however, do reserve our rights</p> <p>6 under the federal rules to any</p> <p>7 remainder of time that we are entitled</p> <p>8 to redirect from questioning done by</p> <p>9 plaintiffs.</p> <p>10 MR. PATTON: Let me note in</p> <p>11 response to Mr. Hutchinson's comment</p> <p>12 that we have coordinated the time both</p> <p>13 with FMI and all the defense counsel</p> <p>14 in this room, and we've separated the</p> <p>15 time four hours for plaintiffs for</p> <p>16 this deposition and three hours for</p> <p>17 defendants. If you didn't coordinate,</p> <p>18 Troy, or you were not a part of that,</p> <p>19 then I am truly sorry. But that's</p> <p>20 what you should have done.</p> <p>21 Let's go off the record so I can</p> <p>22 move my spot.</p> <p>23 VIDEOGRAPHER: Going off the</p> <p>24 record.</p> <p>25 MR. HUTCHINSON: Mr. Patton, I</p>
<p style="text-align: right;">Page 411</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 that.</p> <p>3 MS. KANTOR: I'd like to go off</p> <p>4 the record, please.</p> <p>5 VIDEOGRAPHER: Off the record.</p> <p>6 The time of 5:49.</p> <p>7 - - -</p> <p>8 (A recess was taken.)</p> <p>9 - - -</p> <p>10 VIDEOGRAPHER: We are back on</p> <p>11 the video record with a time of 5:58.</p> <p>12 MS. KANTOR: I have nothing</p> <p>13 further. Thank you.</p> <p>14 MR. DAVIS: Troy?</p> <p>15 MR. HUTCHINSON: This is Troy</p> <p>16 Hutchinson for Sparboe Farms. I have</p> <p>17 waited patiently all day to ask</p> <p>18 Ms. Hollingsworth some questions. I'm</p> <p>19 told I don't have any time to do that,</p> <p>20 which is unfortunate. I do have</p> <p>21 questions. I am being denied the</p> <p>22 opportunity to cross-examine this</p> <p>23 witness, and I reserve my right to do</p> <p>24 so, and I move to strike the testimony</p> <p>25 that's been offered without my ability</p>	<p style="text-align: right;">Page 413</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 would respectfully disagree with your</p> <p>3 position. I didn't coordinate</p> <p>4 anything. You took testimony from</p> <p>5 this witness regarding counterclaims</p> <p>6 brought by my client and I have a</p> <p>7 right to cross-examine this witness.</p> <p>8 I'm being denied that ability. So I</p> <p>9 will reserve my right to do so, and we</p> <p>10 may have to recall this witness. I</p> <p>11 have a right to cross-examine the</p> <p>12 witness.</p> <p>13 VIDEOGRAPHER: Going off the</p> <p>14 record. The time is 6:00 p.m.</p> <p>15 - - -</p> <p>16 (A recess was taken.)</p> <p>17 - - -</p> <p>18 (Exhibit H-45, 2/13/02 E-mail,</p> <p>19 Bates MOARK0011157, was marked for</p> <p>20 identification.)</p> <p>21 - - -</p> <p>22 VIDEOGRAPHER: We are back on</p> <p>23 the video record. The time is 6:02.</p> <p>24 - - -</p> <p>25 FURTHER EXAMINATION</p>

<p style="text-align: right;">Page 414</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 - - -</p> <p>3 BY MR. PATTON:</p> <p>4 Q. Dr. Hollingsworth, thank you.</p> <p>5 Exhibit 40, do you have that in</p> <p>6 front of you?</p> <p>7 A. Yes, I do.</p> <p>8 Q. Does that appear to be a press</p> <p>9 release issued by the FMI?</p> <p>10 A. It does not.</p> <p>11 Q. And do you see in the first</p> <p>12 full paragraph it's a quote from Chad</p> <p>13 Gregory, the UEP president?</p> <p>14 A. Yes.</p> <p>15 Q. Do you see in the second</p> <p>16 paragraph there's a quote from Mark Oldenkamp</p> <p>17 who is the chairman of UEP's Animal Welfare</p> <p>18 Committee?</p> <p>19 A. Yes.</p> <p>20 Q. Is it your understanding that</p> <p>21 these representations were made in a press</p> <p>22 release issued or contributed to the UEP</p> <p>23 without the FMI's contribution?</p> <p>24 MR. DAVIS: Objection.</p> <p>25 MR. MCKENNEY: Objection to</p>	<p style="text-align: right;">Page 416</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 that audit.</p> <p>3 BY MR. PATTON:</p> <p>4 Q. Are you aware that UEP actually</p> <p>5 rejected SES from conducting audits at their</p> <p>6 members' farms?</p> <p>7 MR. DAVIS: Objection to form.</p> <p>8 THE WITNESS: I can't say I can</p> <p>9 confirm that specifically, no.</p> <p>10 BY MR. PATTON:</p> <p>11 Q. Now, do you remember earlier</p> <p>12 today I had asked, and you also had questions</p> <p>13 about the extremist radical group, the</p> <p>14 American Liberation Front?</p> <p>15 A. Yes.</p> <p>16 Q. And I want to put that back in</p> <p>17 context with you. Earlier today I had asked</p> <p>18 you about a meeting with -- between FMI and</p> <p>19 UEP members where both UEP leadership and</p> <p>20 producer members attended that meeting. Do</p> <p>21 you remember that?</p> <p>22 A. Yes.</p> <p>23 Q. And you couldn't recall exactly</p> <p>24 when that happened?</p> <p>25 A. Correct, I can't.</p>
<p style="text-align: right;">Page 415</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 form.</p> <p>3 THE WITNESS: There is no quote</p> <p>4 from FMI. This was not done jointly</p> <p>5 with FMI.</p> <p>6 BY MR. PATTON:</p> <p>7 Q. Thank you.</p> <p>8 Now, you were asked questions</p> <p>9 about an audit process by counsel for UEP,</p> <p>10 particularly with the SES audit process?</p> <p>11 A. Yes.</p> <p>12 Q. What knowledge do you have with</p> <p>13 respect to whether or not the UEP actually</p> <p>14 allowed those audits to take place or whether</p> <p>15 or not they rejected outside audits and</p> <p>16 insisted on doing their own audits?</p> <p>17 MR. DAVIS: Objection to form.</p> <p>18 THE WITNESS: There were</p> <p>19 discussions between UEP and FMI about</p> <p>20 the use of the SES audit, but, again,</p> <p>21 it was a voluntary program and we made</p> <p>22 UEP aware of that audit process, our</p> <p>23 members were aware of that process.</p> <p>24 But we could not -- we were not in a</p> <p>25 position to insist that anyone use</p>	<p style="text-align: right;">Page 417</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Let me hand you what's been</p> <p>3 marked as Exhibit 45. I have now had</p> <p>4 permission to place this document in front of</p> <p>5 you. It's a document produced by Moark in</p> <p>6 this litigation.</p> <p>7 MS. ANDERSON: Did Moark</p> <p>8 consent?</p> <p>9 BY MR. PATTON:</p> <p>10 Q. Do you see --</p> <p>11 MS. ANDERSON: I don't think</p> <p>12 Moark consented on the record.</p> <p>13 MR. PATTON: They told me.</p> <p>14 MS. ANDERSON: But since they're</p> <p>15 on the phone, they could quickly do it</p> <p>16 for the record. Travis?</p> <p>17 MR. KENNEDY: Yeah, we</p> <p>18 consented. Thank you.</p> <p>19 MS. ANDERSON: So you're waiving</p> <p>20 confidentiality on the document?</p> <p>21 MR. PATTON: Yes.</p> <p>22 MR. KENNEDY: Yes.</p> <p>23 BY MR. PATTON:</p> <p>24 Q. So this indicates in the second</p> <p>25 full paragraph, and this is a UEP, you can</p>

<p style="text-align: right;">Page 418</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 see it's written from Gene Gregory.</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And it says, we now have an</p> <p>6 appointment to meet with FMI and NCCR</p> <p>7 tomorrow on February 14 to discuss with them</p> <p>8 the progress we have made since the last</p> <p>9 meeting and to learn what their committee's</p> <p>10 decisions are as to accepting UEP guidelines.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Now, that is UEP's</p> <p>14 characterization of what they intend to do at</p> <p>15 the meeting. Right?</p> <p>16 A. Correct.</p> <p>17 Q. Now, it indicates that Bob</p> <p>18 Krouse and Garth Sparboe will be attending</p> <p>19 this meeting along with Al Pope, Ken Klippen</p> <p>20 and Gene Gregory. Does that refresh your</p> <p>21 recollection that the UEP actually came to</p> <p>22 FMI and present was Bob Krouse and Garth</p> <p>23 Sparboe?</p> <p>24 A. Yes.</p> <p>25 Q. Do you remember meeting</p>	<p style="text-align: right;">Page 420</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 talking only about eggs, because</p> <p>3 certainly it wasn't the only</p> <p>4 guidelines we endorsed, we did them</p> <p>5 for other species.</p> <p>6 BY MR. PATTON:</p> <p>7 Q. So it was the UEP again wanting</p> <p>8 FMI to recommend to their members their</p> <p>9 guidelines. Right?</p> <p>10 A. Correct.</p> <p>11 Q. The UEP was asking FMI to</p> <p>12 present their guidelines, that is the UEP</p> <p>13 guidelines, as the only guidelines to FMI's</p> <p>14 membership. Correct?</p> <p>15 A. Correct.</p> <p>16 MR. HUTCHINSON: Objection to</p> <p>17 the -- objection to the extent that</p> <p>18 you're characterizing --</p> <p>19 MR. PATTON: It also says --</p> <p>20 MR. HUTCHINSON: -- the</p> <p>21 individuals from Sparboe. Excuse me,</p> <p>22 Doug. Doug --</p> <p>23 MR. PATTON: Troy --</p> <p>24 MR. HUTCHINSON: -- excuse me,</p> <p>25 I'm making an objection.</p>
<p style="text-align: right;">Page 419</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Mr. Sparboe?</p> <p>3 A. I do.</p> <p>4 Q. Now, it indicates here, "We</p> <p>5 will again point out to FMI and NCCR the</p> <p>6 importance of working together on a planned</p> <p>7 phase-in schedule and for them to recommend</p> <p>8 to their membership that the UEP guidelines</p> <p>9 be the only guidelines they endorse."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Is this consistent with UEP's</p> <p>13 practice, from your experience, of</p> <p>14 recommending or encouraging the FMI to accept</p> <p>15 their guidelines?</p> <p>16 MR. DAVIS: Objection to form.</p> <p>17 THE WITNESS: FMI actually</p> <p>18 wanted to work with UEP to be able to</p> <p>19 endorse and accept their guidelines,</p> <p>20 but the difference here in the</p> <p>21 sentence is the statement about it</p> <p>22 would be the only guidelines that we</p> <p>23 would endorse. And that was a very</p> <p>24 strong position that they had and one</p> <p>25 that, first of all, I assume they're</p>	<p style="text-align: right;">Page 421</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 MR. PATTON: A speaking</p> <p>3 objection is not acceptable. Do you</p> <p>4 object to the form, Troy?</p> <p>5 MR. HUTCHINSON: I object to the</p> <p>6 mischaracterization of the individuals</p> <p>7 from Sparboe as being part of the UEP.</p> <p>8 BY MR. PATTON:</p> <p>9 Q. Was Sparboe at this -- was</p> <p>10 Garth Sparboe at this meeting?</p> <p>11 A. I believe he was.</p> <p>12 Q. And was he one of the members</p> <p>13 from the UEP who was at this meeting that was</p> <p>14 urging that the FMI tell its members to</p> <p>15 accept only the UEP guidelines?</p> <p>16 MR. DAVIS: Objection to form.</p> <p>17 THE WITNESS: He came to the</p> <p>18 meeting with UEP. I can't say</p> <p>19 specifically that I know who UEP</p> <p>20 members were, but he certainly was</p> <p>21 presented as such.</p> <p>22 BY MR. PATTON:</p> <p>23 Q. Do you recall him speaking?</p> <p>24 A. Yes, I believe he did.</p> <p>25 Q. And this is on February 14,</p>

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<p style="text-align: right;">Page 422</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 2002. Right?</p> <p>3 A. Correct.</p> <p>4 Q. Now, the last sentence says,</p> <p>5 "Otherwise, we will continue to see PETA</p> <p>6 attacking each company separately such as</p> <p>7 they have done to McDonalds - Burger King -</p> <p>8 Wendys - Applebees - Safeway - Domino's -</p> <p>9 Papa Johns and Little Caesars."</p> <p>10 Those are UEP's words. Is that</p> <p>11 right?</p> <p>12 A. Correct.</p> <p>13 Q. Now, do you recall in that</p> <p>14 meeting that they raised the specter of PETA</p> <p>15 attacking retail and fast food establishments</p> <p>16 as part of their efforts to convince UEP --</p> <p>17 as part of their efforts to convince FMI to</p> <p>18 accept UEP guidelines?</p> <p>19 MR. DAVIS: Objection.</p> <p>20 THE WITNESS: I can't</p> <p>21 specifically remember everything that</p> <p>22 was discussed at this meeting in 2002,</p> <p>23 but there had been general discussions</p> <p>24 about concerns for how PETA had</p> <p>25 attacked individual companies and the</p>	<p style="text-align: right;">Page 424</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. And this is one of the</p> <p>4 organizations that you told Mr. Barnes in his</p> <p>5 questioning was a radical and extremist</p> <p>6 group?</p> <p>7 A. Based on the definition that</p> <p>8 FMI used, yes.</p> <p>9 Q. It indicates here, does it not,</p> <p>10 that on February 4, 2002, ten days before the</p> <p>11 scheduled meeting with FMI, that Mr. Pope was</p> <p>12 sending you this report from this radical</p> <p>13 extremist group. Right?</p> <p>14 MR. MCKENNEY: Objection to</p> <p>15 form.</p> <p>16 THE WITNESS: Yes, he did.</p> <p>17 BY MR. PATTON:</p> <p>18 Q. Did you ask the UEP for this</p> <p>19 report?</p> <p>20 A. No, I don't recall us asking</p> <p>21 for this.</p> <p>22 Q. He reminds you "Fortunately,</p> <p>23 most of these were locations other than</p> <p>24 Supermarkets."</p> <p>25 Is that correct?</p>
<p style="text-align: right;">Page 423</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 idea that it made sense to work</p> <p>3 together.</p> <p>4 BY MR. PATTON:</p> <p>5 Q. And that was a proposition that</p> <p>6 the UEP, Mr. Krouse and Mr. Sparboe were</p> <p>7 presenting to FMI leadership. Is that right?</p> <p>8 A. Correct.</p> <p>9 MR. HUTCHINSON: Objection.</p> <p>10 MR. BURKE: Object to form.</p> <p>11 MR. HUTCHINSON: Objection to</p> <p>12 form.</p> <p>13 MR. PATTON: Let me have you</p> <p>14 look at Exhibit 11, please.</p> <p>15 COURT REPORTER: Who besides</p> <p>16 Troy just objected, please?</p> <p>17 MR. BURKE: This is Jason Burke.</p> <p>18 COURT REPORTER: Thank you.</p> <p>19 BY MR. PATTON:</p> <p>20 Q. Exhibit 11, I marked and asked</p> <p>21 you questions about earlier today.</p> <p>22 A. Yes.</p> <p>23 Q. And it is a letter from Mr. Al</p> <p>24 Pope attaching the Animal Liberation Front</p> <p>25 annual report. Is that right?</p>	<p style="text-align: right;">Page 425</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 A. That's what it says.</p> <p>3 MR. MCKENNEY: Objection.</p> <p>4 Leading.</p> <p>5 BY MR. PATTON:</p> <p>6 Q. Is it consistent with UEP's</p> <p>7 efforts to try to get the FMI and its members</p> <p>8 to accept only the UEP guidelines and doing</p> <p>9 so by reminding the FMI of these radical</p> <p>10 animal welfare groups that were sitting in</p> <p>11 the fringe?</p> <p>12 MR. DAVIS: Objection to form.</p> <p>13 MS. ANDERSON: Objection to</p> <p>14 form.</p> <p>15 THE WITNESS: I can't really</p> <p>16 speak to what Mr. Pope's motivation</p> <p>17 was for providing this.</p> <p>18 MR. PATTON: Thank you. I have</p> <p>19 no further questions.</p> <p>20 MR. HUTCHINSON: This is Troy</p> <p>21 Hutchinson, I have some cross on those</p> <p>22 questions.</p> <p>23 MR. PATTON: You'll have to wait</p> <p>24 until the plaintiffs are done with</p> <p>25 their time.</p>

<p style="text-align: right;">Page 426</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 MR. HUTCHINSON: So you're not</p> <p>3 allowing me to ask the questions now?</p> <p>4 MR. PATTON: Troy, why don't you</p> <p>5 wait until we get done?</p> <p>6 MR. HUTCHINSON: Well, just make</p> <p>7 the record. I mean, I'm not going to</p> <p>8 fight with anybody. Either you're</p> <p>9 going to let me or you're not. I just</p> <p>10 want the record to be clear.</p> <p>11 MR. PATTON: Could we go off the</p> <p>12 record?</p> <p>13 MR. HUTCHINSON: No. Let's</p> <p>14 stay -- we need this on the record.</p> <p>15 MR. PATTON: You're using our</p> <p>16 time. You can do it if you're allowed</p> <p>17 to do it later.</p> <p>18 Please go off the record.</p> <p>19 VIDEOGRAPHER: Going off the</p> <p>20 record. The time of 6:11.</p> <p>21 - - -</p> <p>22 (A recess was taken.)</p> <p>23 - - -</p> <p>24 VIDEOGRAPHER: Back on the</p> <p>25 record. The time is 6:12.</p>	<p style="text-align: right;">Page 428</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 know whether this -- strike that.</p> <p>3 Other than the people listed</p> <p>4 here on the to and cc lines, was this</p> <p>5 document ever sent to Associated Wholesale</p> <p>6 Grocers?</p> <p>7 A. Not that I'm aware of.</p> <p>8 Q. And other than the people</p> <p>9 listed on the document, are you aware of any</p> <p>10 other members of FMI that this was</p> <p>11 communicated to?</p> <p>12 A. As far as FMI members, not that</p> <p>13 I'm aware of. FMI staff, yes. It went to</p> <p>14 myself, and it would have been an internal</p> <p>15 document, but I don't know of any other</p> <p>16 members who would have received it.</p> <p>17 Q. During the course of your</p> <p>18 questioning today by the defendants, you were</p> <p>19 asked on a number of occasions about the</p> <p>20 intent or purpose or expectation of FMI</p> <p>21 members generally. Do you recall some of</p> <p>22 those questions?</p> <p>23 A. Yes.</p> <p>24 Q. And specifically with 1,500</p> <p>25 members, can you say that any -- that all of</p>
<p style="text-align: right;">Page 427</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 - - -</p> <p>3 EXAMINATION</p> <p>4 - - -</p> <p>5 BY MR. WILDERS:</p> <p>6 Q. Dr. Hollingsworth, my name is</p> <p>7 Brad Wilders. I represent Associated</p> <p>8 Wholesale Grocers, Consentino's and Four B,</p> <p>9 you previously identified I think as Ball's</p> <p>10 Food Group. I'm going take as little of your</p> <p>11 time as possible. You've been very patient</p> <p>12 and a real trooper here today, but my client</p> <p>13 does have a few questions for you.</p> <p>14 If you could pull out</p> <p>15 Exhibit 25, please.</p> <p>16 A. I have that.</p> <p>17 Q. And you previously testified</p> <p>18 that this was a status update sent to some of</p> <p>19 the people listed on the first page of the</p> <p>20 exhibit. Is that right?</p> <p>21 A. Exhibit 25 is a document</p> <p>22 transmitting materials to a group of FMI</p> <p>23 members prior to a meeting.</p> <p>24 Q. And other than the people</p> <p>25 listed here on the to or cc lines, do you</p>	<p style="text-align: right;">Page 429</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 the members have the same purpose or intent</p> <p>3 on any particular issue?</p> <p>4 A. No, I can't say that.</p> <p>5 Q. So when you used -- when you</p> <p>6 answered questions with respect to the term</p> <p>7 "FMI members," what is it that you were --</p> <p>8 you understood that term to mean?</p> <p>9 A. I think it would depend on the</p> <p>10 context. But, for example, when we said we</p> <p>11 went forward with a policy based on the</p> <p>12 board's request, it meant -- when I said the</p> <p>13 members' request, it meant because the board</p> <p>14 approved the policy and the board is</p> <p>15 considered representative of the membership.</p> <p>16 Q. But -- and let's look at</p> <p>17 Exhibit 25. If you'll turn to FMI 1131,</p> <p>18 "BOARD APPROVED POLICY."</p> <p>19 A. Yes.</p> <p>20 Q. Is this -- in 2001, was this</p> <p>21 the only policy that was ever approved by the</p> <p>22 board with respect to animal welfare?</p> <p>23 A. With respect to animal welfare,</p> <p>24 this was the only policy, yes.</p> <p>25 Q. And other than I think you had</p>

<p style="text-align: right;">Page 430</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 testified to a 2012 revision, I'm just going</p> <p>3 to set that aside for the moment. Okay?</p> <p>4 A. All right.</p> <p>5 Q. With respect to the board's</p> <p>6 involvement in the animal welfare program,</p> <p>7 other than approving the policy, what level</p> <p>8 of involvement did the board have?</p> <p>9 A. The only direct involvement the</p> <p>10 board would have had is if there had been any</p> <p>11 individual member who might have asked for an</p> <p>12 update or information, but once the board set</p> <p>13 the policy in motion, it was between the</p> <p>14 staff and people within member companies who</p> <p>15 had been appointed to work on this issue with</p> <p>16 us.</p> <p>17 Q. And those were the people that</p> <p>18 were on the member committee that you</p> <p>19 testified about earlier?</p> <p>20 A. Yes, both the member committee</p> <p>21 and those who had directly expressed an</p> <p>22 interest with being involved.</p> <p>23 Q. Was Associated Wholesale</p> <p>24 Grocers ever one of the member -- committee</p> <p>25 members or someone who expressed an interest</p>	<p style="text-align: right;">Page 432</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 tell us what, if any, involvement the board</p> <p>3 ever had in any egg specific animal welfare</p> <p>4 guidelines?</p> <p>5 A. The actual board members, I</p> <p>6 don't know of any.</p> <p>7 Q. Is that true also for the 2012</p> <p>8 revisions of the animal welfare policy of</p> <p>9 FMI?</p> <p>10 A. I don't know that for sure.</p> <p>11 Q. Sitting here today, can you</p> <p>12 tell us about any involvement the board had</p> <p>13 with respect to egg welfare guidelines other</p> <p>14 than the generalized policies?</p> <p>15 A. I'm sorry, ask the question</p> <p>16 again?</p> <p>17 Q. It was a bad question. I'll</p> <p>18 withdraw that.</p> <p>19 If you could pull out</p> <p>20 Exhibit 24, please. Maybe while your counsel</p> <p>21 is doing that, has anyone from Associated</p> <p>22 Wholesale Grocers ever addressed the issue of</p> <p>23 animal welfare to FMI?</p> <p>24 A. Not that I'm aware of.</p> <p>25 Q. And has anyone from Consentino</p>
<p style="text-align: right;">Page 431</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 of being involved in animal welfare?</p> <p>3 A. Not that I recall. And I don't</p> <p>4 see their names on the distribution list, so</p> <p>5 I would assume not. I don't recall anyone</p> <p>6 from there being on this.</p> <p>7 Q. Was anyone from Consentino's in</p> <p>8 Kansas City, Missouri or elsewhere involved</p> <p>9 in the animal welfare program of FMI?</p> <p>10 A. Not that I'm aware of.</p> <p>11 Q. What about anyone from Four B</p> <p>12 Corporation or as you referred to it Ball's</p> <p>13 Food Group?</p> <p>14 A. Not that I'm aware of.</p> <p>15 Q. And can you confirm for me that</p> <p>16 the policy that was passed by the board that</p> <p>17 you were looking at within Exhibit 25, that</p> <p>18 policy does not say anything specifically</p> <p>19 about eggs, does it?</p> <p>20 A. No, it does not.</p> <p>21 Q. It's a generalized policy about</p> <p>22 animal welfare, not about the egg producing</p> <p>23 industry. Is that right?</p> <p>24 A. Correct.</p> <p>25 Q. Sitting here today, can you</p>	<p style="text-align: right;">Page 433</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Group ever approached FMI about animal</p> <p>3 welfare or spoken to them about it?</p> <p>4 A. Not that I'm aware of.</p> <p>5 Q. What about Four B or Ball's</p> <p>6 Food Group?</p> <p>7 A. Not that I'm aware of.</p> <p>8 Q. With 1,500 members, would it be</p> <p>9 true that members are free to have their own</p> <p>10 opinions about particular policies?</p> <p>11 A. Yes.</p> <p>12 Q. If you could -- on Exhibit 24,</p> <p>13 if you could turn to page 656. I want to</p> <p>14 direct your attention to "Programme of the</p> <p>15 Food Marketing Institute."</p> <p>16 A. Yes.</p> <p>17 Q. There was a line of questioning</p> <p>18 about the last full sentence of that</p> <p>19 paragraph where it read, "The FMI Board</p> <p>20 directed the organization to develop retailer</p> <p>21 expectations for use for suppliers..."</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. And did retailer expectations</p> <p>25 in this paragraph refer to any specific</p>



<p style="text-align: right;">Page 434</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 retailer's expectations?</p> <p>3 A. No.</p> <p>4 Q. And so what was your</p> <p>5 understanding when you wrote this about what</p> <p>6 you meant with respect to retailer</p> <p>7 expectations? Whose expectations were you</p> <p>8 talking about?</p> <p>9 A. Those of a general group that</p> <p>10 would represent membership in general, in</p> <p>11 particular the advisory counsel that we were</p> <p>12 working with at that time.</p> <p>13 Q. Where was this Exhibit 24,</p> <p>14 where was this published, or if it wasn't</p> <p>15 published, do you know what the purpose of it</p> <p>16 was?</p> <p>17 MR. DAVIS: Objection. Asked</p> <p>18 and answered.</p> <p>19 THE WITNESS: I had mentioned</p> <p>20 this earlier. It was part of a</p> <p>21 publication for an organization called</p> <p>22 the Office of International</p> <p>23 Epizootics. And Ms. Brown and I were</p> <p>24 asked to attend a meeting of this</p> <p>25 organization to make a presentation to</p>	<p style="text-align: right;">Page 436</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 facility and informed them of what</p> <p>3 conformities or non-conformities they had</p> <p>4 with the guidance. Our audit did not say</p> <p>5 whether a company passed or failed. It only</p> <p>6 said whether they met all of the guidelines</p> <p>7 or if they needed improvement. The UEP audit</p> <p>8 which I was not a part of their process or</p> <p>9 their auditing, but we were informed by UEP</p> <p>10 that it was a pass/fail type of audit.</p> <p>11 Q. And was that a particular issue</p> <p>12 of contention between UEP and FMI during this</p> <p>13 process?</p> <p>14 MR. DAVIS: Objection.</p> <p>15 THE WITNESS: I don't remember</p> <p>16 the major discussion being an issue</p> <p>17 over the pass/fail or not.</p> <p>18 BY MR. WILDERS:</p> <p>19 Q. If you would look at 1365</p> <p>20 where -- and this is talking about housing</p> <p>21 and space allowance. Is that right?</p> <p>22 A. Yes.</p> <p>23 Q. And the evaluation of the two</p> <p>24 program audits reads, "This set of questions</p> <p>25 is found in both audit tools; however, a</p>
<p style="text-align: right;">Page 435</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 them and then to provide our remarks</p> <p>3 in a printed form.</p> <p>4 BY MR. WILDERS:</p> <p>5 Q. Thank you. I'm sorry if you</p> <p>6 answered that earlier, I may have missed that</p> <p>7 one.</p> <p>8 Could you pull out Exhibit 6 --</p> <p>9 sorry, Exhibit 37, please. In Exhibit 37,</p> <p>10 could you, please, turn to the page listed</p> <p>11 16 -- 1365, it says FMI-1365. Do you recall</p> <p>12 whether the UEP Certified Program was --</p> <p>13 membership in the UEP Certified Program was</p> <p>14 based on whether a farmer or producer passed</p> <p>15 or failed the UEP audit?</p> <p>16 A. That was my understanding.</p> <p>17 Q. And the audit that you had</p> <p>18 talked about earlier, that FMI had arranged</p> <p>19 for, was that a pass or fail audit?</p> <p>20 A. It was not.</p> <p>21 Q. Can you explain the difference</p> <p>22 between a pass or fail audit and what FMI was</p> <p>23 involved in?</p> <p>24 A. Our audit was intended to</p> <p>25 provide an assessment of a company or a</p>	<p style="text-align: right;">Page 437</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 non-conformance on this issue will not result</p> <p>3 in an audit failure in the NCCR/FMI audit."</p> <p>4 Did I read that correctly?</p> <p>5 A. I'm sorry, I don't see that.</p> <p>6 Q. It's right under the "...chicks</p> <p>7 hatched after April 1, 2008..."</p> <p>8 A. Okay.</p> <p>9 Q. Right here.</p> <p>10 A. Oh, I'm sorry, the first</p> <p>11 italicized paragraph, okay. Let me read it</p> <p>12 again.</p> <p>13 What you read was correct, yes.</p> <p>14 Q. And was it true that with</p> <p>15 respect to the difference between the UEP</p> <p>16 audit and the FMI audit, that under the UEP</p> <p>17 audit, if you did not meet the cage space</p> <p>18 requirements, you would automatically fail</p> <p>19 the UEP audit?</p> <p>20 MR. DAVIS: Objection.</p> <p>21 THE WITNESS: That is what SES</p> <p>22 told us in their assessment of the UEP</p> <p>23 audit.</p> <p>24 BY MR. WILDERS:</p> <p>25 Q. And that was not true with</p>

<p style="text-align: right;">Page 438</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 respect to the FMI audit?</p> <p>3 A. Correct, it was not part of</p> <p>4 the -- that would not have happened in the</p> <p>5 FMI/NCCR audit.</p> <p>6 Q. Were members of FMI who chose</p> <p>7 to take advantage of the SES audit free to</p> <p>8 continue to buy eggs from a supplier if they</p> <p>9 had a non-conformance on the cage space</p> <p>10 requirements?</p> <p>11 MR. DAVIS: Objection.</p> <p>12 THE WITNESS: It was entirely up</p> <p>13 to a retailer to decide who they</p> <p>14 wanted to purchase from.</p> <p>15 BY MR. WILDERS:</p> <p>16 Q. Was one of the goals of the FMI</p> <p>17 audit process to allow a retailer to compare</p> <p>18 audits between one supplier and another on</p> <p>19 each individual animal welfare guideline?</p> <p>20 MR. DAVIS: Objection.</p> <p>21 THE WITNESS: That would be</p> <p>22 entirely, again, up to the retailer</p> <p>23 how they wanted to use the audit</p> <p>24 results.</p> <p>25 BY MR. WILDERS:</p>	<p style="text-align: right;">Page 440</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Were there any consequences</p> <p>3 with respect to FMI membership if a member</p> <p>4 chose not to buy eggs that were compliant</p> <p>5 with the best practices of the FMI Scientific</p> <p>6 Advisory Committee?</p> <p>7 A. No, there would be no</p> <p>8 consequences.</p> <p>9 Q. Did FMI ever use any marketing</p> <p>10 to pressure consumers to put pressure on</p> <p>11 retailers to adopt the FMI animal welfare</p> <p>12 best practices?</p> <p>13 A. No.</p> <p>14 Q. Did FMI do any marketing with</p> <p>15 respect to the best practices developed by</p> <p>16 the Scientific Advisory Committee for eggs?</p> <p>17 A. Marketing, when you say</p> <p>18 marketing, do you mean to the membership or</p> <p>19 to the consumers or to the public in general?</p> <p>20 Q. Either the consumers or public</p> <p>21 in general.</p> <p>22 A. We made -- we did do interviews</p> <p>23 and make statements and issue press releases</p> <p>24 regarding what we were doing and the progress</p> <p>25 that we were making, but nothing as far as</p>
<p style="text-align: right;">Page 439</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Q. Did FMI ever do anything to</p> <p>3 pressure their members to only buy eggs from</p> <p>4 suppliers who passed the UEP certified audit?</p> <p>5 A. No, we did not.</p> <p>6 Q. Did they ever do anything to</p> <p>7 pressure their members to adopt in any way</p> <p>8 the animal welfare policy of FMI?</p> <p>9 A. I'm sorry, to adopt the policy?</p> <p>10 Q. Right. You testified earlier,</p> <p>11 I thought, that you -- that FMI members were</p> <p>12 free or not free to adopt the FMI Animal</p> <p>13 Welfare Guidelines?</p> <p>14 A. Correct.</p> <p>15 Q. So did FMI ever take any action</p> <p>16 to pressure members to adopt the FMI animal</p> <p>17 welfare guidelines?</p> <p>18 A. No, not to adopt the</p> <p>19 guidelines.</p> <p>20 Q. Did they ever in any way</p> <p>21 suggest -- strike that.</p> <p>22 Did they ever in any way</p> <p>23 pressure members to adopt the egg specific</p> <p>24 animal welfare best practices?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 441</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 retailers having to use the program. Just</p> <p>3 that it was available.</p> <p>4 Q. Could you pull out Exhibit 40</p> <p>5 again, please? That was the 2013 UEP press</p> <p>6 release.</p> <p>7 MR. DAVIS: Objection to the</p> <p>8 characterization.</p> <p>9 BY MR. WILDERS:</p> <p>10 Q. It's the one-page document.</p> <p>11 A. Yes, I have it.</p> <p>12 Q. And I believe you testified</p> <p>13 you've never seen this before. Correct?</p> <p>14 A. I had not.</p> <p>15 Q. Are you aware of instances</p> <p>16 prior to this document where UEP was not</p> <p>17 accurately stating FMI's position with</p> <p>18 respect to the UEP Certified Program?</p> <p>19 MR. DAVIS: Objection.</p> <p>20 THE WITNESS: Not in a press</p> <p>21 release.</p> <p>22 BY MR. WILDERS:</p> <p>23 Q. What about in any way?</p> <p>24 A. I believe that previously there</p> <p>25 was some correspondence where UEP asked if</p>

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<p style="text-align: right;">Page 442</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 FMI would take certain positions, but they</p> <p>3 were requests from UEP to do so.</p> <p>4 - - -</p> <p>5 (Exhibit H-46, E-mail chain,</p> <p>6 Bates FMI-002537 &amp; FMI-002538, was</p> <p>7 marked for identification.)</p> <p>8 - - -</p> <p>9 BY MR. WILDERS:</p> <p>10 Q. I'm going to hand you a copy of</p> <p>11 the Exhibit 46 and ask you to look at page</p> <p>12 3079.</p> <p>13 MR. DAVIS: This is the wrong</p> <p>14 one.</p> <p>15 MR. WILDERS: That's 46. Keep</p> <p>16 that to the side and I'll make this</p> <p>17 Exhibit 47.</p> <p>18 - - -</p> <p>19 (Exhibit H-47, E-mail chain,</p> <p>20 Bates FMI-003078 &amp; FMI-003079, was</p> <p>21 marked for identification.)</p> <p>22 - - -</p> <p>23 MS. ANDERSON: I'm sorry, what's</p> <p>24 the Bates number?</p> <p>25 MR. WILDERS: Exhibit 47 and</p>	<p style="text-align: right;">Page 444</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 the fact that it is endorsed by NCCR and</p> <p>3 FMI."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Would it be accurate at this</p> <p>7 time for UEP to be making references in the</p> <p>8 press that FMI had endorsed the UEP Certified</p> <p>9 Program?</p> <p>10 MR. DAVIS: Objection.</p> <p>11 THE WITNESS: FMI did not</p> <p>12 endorse the certified program.</p> <p>13 BY MR. WILDERS:</p> <p>14 Q. And if you turn the page, Mr.</p> <p>15 Gregory writes, copy to Ms. Brown, "Terrie,</p> <p>16 The cover page of our website</p> <p>17 www.animalcarecertified.com makes the</p> <p>18 following statement that we both agree is an</p> <p>19 error."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. So does that refresh your</p> <p>23 recollection that in the past UEP had been</p> <p>24 making statements to the press inaccurately</p> <p>25 that FMI had endorsed the UEP Certified</p>
<p style="text-align: right;">Page 443</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 it's FMI-3078.</p> <p>3 MR. DAVIS: Is this one 46 or</p> <p>4 47?</p> <p>5 MR. WILDERS: That will be 47</p> <p>6 and we'll come back to the other one.</p> <p>7 MS. ANDERSON: Has the other one</p> <p>8 already been marked?</p> <p>9 MR. WILDERS: It did. It was 46</p> <p>10 and the Bates number --</p> <p>11 MS. ANDERSON: FMI-002537 to 38?</p> <p>12 MR. WILDERS: Yes.</p> <p>13 BY MR. WILDERS:</p> <p>14 Q. If you could turn to the second</p> <p>15 page of Exhibit 47. It an e-mail from Terrie</p> <p>16 Dort to Gene Gregory. Do you know who Terrie</p> <p>17 Dort was?</p> <p>18 A. Yes, she was head of the NCCR.</p> <p>19 Q. Do you see there it lists --</p> <p>20 ultimately this e-mail was copied to Karen</p> <p>21 Brown, correct, on the first page, at FMI?</p> <p>22 A. Yes.</p> <p>23 Q. Ms. Dort writes, I have --</p> <p>24 "Gene - I have seen several references in the</p> <p>25 press lately to the UEP certified program and</p>	<p style="text-align: right;">Page 445</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 Program?</p> <p>3 MR. DAVIS: Objection.</p> <p>4 Mischaracterizes the document. Is</p> <p>5 also beyond the scope of anyone's</p> <p>6 direct.</p> <p>7 THE WITNESS: I'm not sure that</p> <p>8 it is correct to say that we are aware</p> <p>9 that UEP went directly to the press</p> <p>10 with that information. It was my</p> <p>11 general understanding that someone in</p> <p>12 the media or press had gotten the</p> <p>13 information from the Web site.</p> <p>14 BY MR. WILDERS:</p> <p>15 Q. But it was on UEP's Web site,</p> <p>16 and it was inaccurate. Correct?</p> <p>17 MR. DAVIS: Same objection.</p> <p>18 THE WITNESS: Correct.</p> <p>19 BY MR. WILDERS:</p> <p>20 Q. If you look at how Mr. Gregory</p> <p>21 proposed to change the Web site, he wrote --</p> <p>22 the change he suggested is down there in the</p> <p>23 next quote. Correct?</p> <p>24 A. Correct.</p> <p>25 Q. It reads, "While not giving</p>

<p style="text-align: right;">Page 446</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 endorsement to the Animal Care Certified</p> <p>3 program, FMI and NCCR have endorsed the</p> <p>4 science-based Animal Husbandry Guidelines</p> <p>5 from United Egg Producers from which the</p> <p>6 Animal Care Certified program has evolved."</p> <p>7 Did I read that correctly?</p> <p>8 A. Correct.</p> <p>9 Q. Is that a correct statement of</p> <p>10 FMI's position?</p> <p>11 A. That would be a correct</p> <p>12 statement.</p> <p>13 Q. And Mr. Gregory, on behalf of</p> <p>14 UEP, understood that, at least as of</p> <p>15 January 7, 2005. Correct?</p> <p>16 A. Correct.</p> <p>17 Q. Did the best practices -- let</p> <p>18 me back up.</p> <p>19 Are you familiar with something</p> <p>20 that UEP called the 100 percent rule?</p> <p>21 MR. DAVIS: Objection.</p> <p>22 THE WITNESS: Yes, I believe</p> <p>23 I've seen that in the document.</p> <p>24 BY MR. WILDERS:</p> <p>25 Q. Can you tell me when an FMI</p>	<p style="text-align: right;">Page 448</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 the best way to determine how many facilities</p> <p>3 and houses and cages had to be examined.</p> <p>4 Q. And when FMI -- in the FMI best</p> <p>5 practices -- strike that.</p> <p>6 If a retailer wanted to buy</p> <p>7 eggs from a producer, from a facility that</p> <p>8 complied with the best practices, but that</p> <p>9 producer had another facility that let's say</p> <p>10 did not comply with the cage space</p> <p>11 requirements of the FMI best practices, would</p> <p>12 the retailer be doing anything inconsistent</p> <p>13 with the FMI policy by doing so?</p> <p>14 MR. DAVIS: I object. It's</p> <p>15 vague and ambiguous and far outside</p> <p>16 the scope of direct.</p> <p>17 THE WITNESS: I'm not sure I can</p> <p>18 follow the question well enough to</p> <p>19 answer it.</p> <p>20 BY MR. WILDERS:</p> <p>21 Q. If -- let's use a particular --</p> <p>22 let's just say if retailer A wants to buy</p> <p>23 eggs from a producer and some of that</p> <p>24 producer's facilities comply with the best</p> <p>25 practices and some of their facilities don't</p>
<p style="text-align: right;">Page 447</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 audit occurred for a farmer who had multiple</p> <p>3 different facilities or multiple different</p> <p>4 farms, who chose which farms or facilities</p> <p>5 were audited?</p> <p>6 MR. DAVIS: I object. There's</p> <p>7 actually no foundation. This is so,</p> <p>8 so, so far beyond the scope of</p> <p>9 anything that anyone has even hinted</p> <p>10 at in direct examination.</p> <p>11 THE WITNESS: The issue of how</p> <p>12 you would decide to conduct an audit,</p> <p>13 how many houses, how many rows of</p> <p>14 cages, how many cages, was an ongoing</p> <p>15 debate.</p> <p>16 BY MR. WILDERS:</p> <p>17 Q. And was there ever -- did FMI</p> <p>18 ever include in its best practices a</p> <p>19 requirement that if a farm was going to be</p> <p>20 audited, that every single facility within</p> <p>21 the farm had to comply with the best</p> <p>22 practices of FMI?</p> <p>23 A. We deferred to SES to talk to</p> <p>24 audit experts and others who had already</p> <p>25 performed animal welfare experts on what was</p>	<p style="text-align: right;">Page 449</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 comply with the best practices, and the</p> <p>3 retailer says, well, I don't care about the</p> <p>4 facilities that do comply, I just want to buy</p> <p>5 the eggs that don't comply. Is there</p> <p>6 anything inconsistent with the FMI guidelines</p> <p>7 in taking that action?</p> <p>8 MR. DAVIS: Same objection.</p> <p>9 MR. BARNES: Objection. It's</p> <p>10 repetitive. Mr. Patton already</p> <p>11 covered that point. If you're going</p> <p>12 to reask questions that have already</p> <p>13 been asked, we're never going to end</p> <p>14 this deposition.</p> <p>15 THE WITNESS: That would have</p> <p>16 been up to the retailer to determine</p> <p>17 if they would accept that or not.</p> <p>18 BY MR. WILDERS:</p> <p>19 Q. If a supplier and a retailer</p> <p>20 agreed to do that, would that -- would the</p> <p>21 supplier have been doing anything in</p> <p>22 contravention to the FMI best practices?</p> <p>23 A. Our best practices really</p> <p>24 focused on the guidelines themselves and not</p> <p>25 the results of the audit. It would have been</p>

<p style="text-align: right;">Page 450</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 between the retailer and supplier.</p> <p>3 MS. ANDERSON: Could the</p> <p>4 videographer give us the time on the</p> <p>5 record?</p> <p>6 VIDEOGRAPHER: Seven hours and</p> <p>7 three minutes.</p> <p>8 MR. GREEN: I think it's time to</p> <p>9 wrap it up.</p> <p>10 MR. WILDERS: All right. Let</p> <p>11 me -- give me one more second here. I</p> <p>12 have one more document to show you.</p> <p>13 MS. ANDERSON: I think you</p> <p>14 actually shut the defendants off in</p> <p>15 the middle of a sentence, so you're</p> <p>16 over your time.</p> <p>17 MR. WILDERS: You position is</p> <p>18 that we're not allowed to ask</p> <p>19 follow-up questions?</p> <p>20 MS. ANDERSON: No. My position</p> <p>21 was that actually if you were going to</p> <p>22 cut it off at seven hours, you cut off</p> <p>23 the defendants, so if you are going to</p> <p>24 cut off --</p> <p>25 MR. GREEN: I think we need to</p>	<p style="text-align: right;">Page 452</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 over that. That is Mr. Green and the</p> <p>3 witness' decision, not ours.</p> <p>4 MS. ANDERSON: That is up to</p> <p>5 FMI's counsel.</p> <p>6 MR. WILDERS: You cross noticed</p> <p>7 the deposition without including us.</p> <p>8 MS. SUMNER: We can't control</p> <p>9 how much time he gives you.</p> <p>10 MR. DAVIS: To be clear,</p> <p>11 defendants are not ending the</p> <p>12 deposition or cutting off your right</p> <p>13 to question. We are deferring to the</p> <p>14 witness' counsel in allowing you time</p> <p>15 to question.</p> <p>16 MR. GREEN: Well, you're</p> <p>17 referring to the federal rules which</p> <p>18 provide for seven hours of deposition</p> <p>19 and at this point we've exceeded that.</p> <p>20 MR. WILDERS: It's a different</p> <p>21 rule in Kansas. We'll take it up.</p> <p>22 MR. GREEN: We're not in Kansas</p> <p>23 anymore.</p> <p>24 THE WITNESS: This isn't Kansas.</p> <p>25 VIDEOGRAPHER: Concluding the</p>
<p style="text-align: right;">Page 451</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 be fair, so...</p> <p>3 MR. DAVIS: Our position is it's</p> <p>4 up to Mr. Green.</p> <p>5 MR. GREEN: I think in the</p> <p>6 interest of fairness, we'll stop it</p> <p>7 here.</p> <p>8 MR. WILDERS: In that case, I</p> <p>9 just want to make for the record our</p> <p>10 objection to the cross noticing of</p> <p>11 these depositions if we're not going</p> <p>12 to be given a fair opportunity,</p> <p>13 because our case is in a completely</p> <p>14 different jurisdiction, completely</p> <p>15 different judge, completely different</p> <p>16 case. If your position is going to be</p> <p>17 you're going to cross notice these</p> <p>18 depositions for our case and our</p> <p>19 trial, then I think we're entitled to</p> <p>20 ask follow-up questions. So if you</p> <p>21 don't leave us enough time to do so,</p> <p>22 then I can't promise --</p> <p>23 MS. ANDERSON: I'm not sure why</p> <p>24 you're looking at me.</p> <p>25 MS. SUMNER: We have no control</p>	<p style="text-align: right;">Page 453</p> <p>1 JILL HOLLINGSWORTH, DVM - HIGHLY CONFIDENTIAL</p> <p>2 deposition. Going off the record at</p> <p>3 the time of 6:38.</p> <p>4 - - -</p> <p>5 (Witness excused.)</p> <p>6 - - -</p> <p>7 (Deposition concluded at 6:38</p> <p>8 p.m.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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1  
2           C E R T I F I C A T E  
3  
4

5       I do hereby certify that I am a Notary  
6 Public in good standing, that the aforesaid  
7 testimony was taken before me, pursuant to  
8 notice, at the time and place indicated; that  
9 said deponent was by me duly sworn to tell  
10 the truth, the whole truth, and nothing but  
11 the truth; that the testimony of said  
12 deponent was correctly recorded in machine  
13 shorthand by me and thereafter transcribed  
14 under my supervision with computer-aided  
15 transcription; that the deposition is a true  
16 and correct record of the testimony given by  
17 the witness; and that I am neither of counsel  
18 nor kin to any party in said action, nor  
19 interested in the outcome thereof.  
20  
21       WITNESS my hand and official seal this  
22 24th day of April, 2014.  
23  
24  
25       \_\_\_\_\_  
Notary Public

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2           I N S T R U C T I O N S   T O   W I T N E S S  
3  
4       Please read your deposition over  
5 carefully and make any necessary corrections.  
6 You should state the reason in the  
7 appropriate space on the errata sheet for any  
8 corrections that are made.  
9       After doing so, please sign the errata  
10 sheet and date it.  
11       You are signing same subject to the  
12 changes you have noted on the errata sheet,  
13 which will be attached to your deposition.  
14       It is imperative that you return the  
15 original errata sheet to the deposing  
16 attorney within thirty (30) days of receipt  
17 of the deposition transcript by you. If you  
18 fail to do so, the deposition transcript may  
19 be deemed to be accurate and may be used in  
20 court.  
21  
22  
23  
24  
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1           A C K N O W L E D G M E N T   O F   D E P O N E N T  
2  
3       I have read the foregoing transcript of  
4 my deposition and except for any corrections or  
5 changes noted on the errata sheet, I hereby  
6 subscribe to the transcript as an accurate record  
7 of the statements made by me.  
8  
9       \_\_\_\_\_  
10           JILL HOLLINGSWORTH, DVM  
11  
12       S U B S C R I B E D   A N D   S W O R N   b e f o r e   a n d   t o   m e  
13 this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
14  
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16       \_\_\_\_\_  
17           N O T A R Y   P U B L I C  
18  
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20       My Commission expires:  
21  
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24  
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1           E R R A T A   S H E E T  
2       I N   R E :   P R O C E S S E D   E G G   P R O D U C T S   A N T I T R U S T   L I T I G A T I O N  
3       D A T E :   4 / 1 8 / 1 4  
4       P A G E   L I N E           C O R R E C T I O N   A N D   R E A S O N  
5       \_\_\_\_   \_\_\_\_           \_\_\_\_\_  
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23  
24       \_\_\_\_\_  
25       (DATE)           JILL HOLLINGSWORTH, DVM

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